



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES

Case No. 03-CR-10356-MLW

v.

FREDERICK A. SIMONE, (1)
a/k/a FREDDY, a/k/a
THE NEIGHBOR;

VINCENT C. GIOACCHINI, (2)
a/k/a DEE DEE; and

FRANCIS WHITE, (3)
a/k/a THE WHITE-HAIRED GUY

AFFIDAVIT OF DETECTIVE LIEUTENANT JOHN TUTUNGIAN
IN SUPPORT OF PRETRIAL DETENTION

I, John Tutungian, hereby depose and state as follows:

1. I am a Detective Lieutenant with the Massachusetts State Police ("MSP"), serving as the commanding officer of the Special Services Section ("SSS"). In general, the SSS is responsible for investigating organized criminal activities throughout the Commonwealth of Massachusetts, including illegal gaming, extortion and loansharking. I have been employed with the MSP since 1981 and in February 1988 I was assigned to the organized crime section of the SSS. During the past 15 years, my duties and responsibilities have included the investigation of illegal gambling, extortion, loansharking, money laundering and other criminal activities commonly associated with organized crime. These investigations have resulted in both state and

federal prosecutions and convictions. I have participated in numerous investigations which utilized court-ordered electronic surveillance, often serving as the affiant or primary case officer, and have reviewed thousands of hours of conversations by organized crime figures discussing their gambling, loansharking and extortion activities. As a result of this investigative experience, I am familiar with the organized crime vernacular relating to many of the foregoing illegal activities. I have testified numerous times in both state and federal court. I have been qualified and testified as an expert witness in the area of illegal gaming.

2. The information contained in this affidavit is based upon my personal involvement in this investigation, conversations with other law enforcement officials and a review of other information related to this investigation. Because this affidavit is offered for the limited purposes of supporting the government's motion for pretrial detention, it does not contain all the information known to me regarding this investigation. Instead, it contains only the information necessary to support the government's motion.

LA COSA NOSTRA

3. La Cosa Nostra ("LCN"), also known as the "Mafia", "This Thing of Ours" or "This Thing", is a secretive criminal organization which operates throughout the United States and the

world. The LCN has a rigid hierarchical structure and its own system of laws. The LCN is composed of Families, each of which controls a designated geographical area. It is ruled on a national level by a Commission which is composed of heads or "Bosses" of the most powerful Families. Each Family, in turn, is headed by a Boss who has absolute authority within his Family. A "Consigliere" or counselor acts as the advisor to the Family. The Underboss, who is the second in command, assists the Boss in running the Family and acts for him in his absence. Below the Underboss are a number of "Capos" or Captains who supervise the illegal activities of members and associates within their "Regime" or Crew. "Soldiers" are "made" (formally inducted) members of the Family who report to the Capos. In addition, the Family makes use of "associates" who, although not formally members of the LCN, perform necessary and helpful roles in the Family's criminal activities.

NEW ENGLAND LCN FAMILY

4. For many years, Raymond J. Patriarca was the Boss of the Patriarca Family, the LCN Family with authority over New England. Patriarca and much of his Family leadership were incarcerated following numerous prosecutions in the District of Massachusetts, including United States v. Anziulo, et al., Cr. No. 82-235-N, United States v. Patriarca, et al., Cr. No. 89-289-MLW, and United States v. Quintina, et al., Cr. No. 94-10027-WGY.

By October 2000, the New England Family of the LCN had evolved to include without limitation Luigi "Louie" Manocchio as Boss, Alexander "Sonny Boy" Rizzo as Underboss for the greater Boston area, Rocco "Shaky" Argenti (now deceased) of Rhode Island as Consigliere, Carmen DiNunzio as a Boston Capo, Matthew L. Guglielmetti, Jr. as a Rhode Island Capo and defendants **VINCENT GIOACCHINI** and **FREDERICK SIMONE** as Soldiers. Defendant **FRANCIS WHITE** has been a long-time associate of **SIMONE** and other LCN members, using their LCN status and reputation for his own pecuniary gain through criminal wrongdoing.

5. The business of the New England LCN Family has been and remains the earning and maintaining of money and other things of value through illegal activities, including without limitation extortion, gambling, loansharking and money laundering. Family members rely on their reputations for violence and murder as implicit and explicit means to advance the Family's criminal objectives and to protect its members from law enforcement investigation and prosecution for the crimes they have committed on behalf of the Family. Members of the New England LCN Family have historically engaged in a regular and systemic pattern of obstruction of justice, intimidation of witnesses and jury tampering to protect the Family and its members. The Family has also facilitated and financed Family members who have taken flight to avoid apprehension and prosecution. The international

span of the LCN along with the life loyalty pledges of its members creates a global support network for LCN members, associates and their family members.

DEFENDANT VINCENT C. "DEE DEE" GIOACCHINI

6. A thirty-year veteran LCN Soldier, **GIOACCHINI** was present at an October 29, 1989 LCN induction ceremony in Medford, Massachusetts which law enforcement intercepted and recorded, evidencing the life-long blood loyalty oaths of "omerta" pledged by every LCN member. With their oaths, LCN members effectually vow to their fellow LCN members that membership in the LCN Family supersedes all other personal relationships, moral codes and obligations imposed by law or otherwise. LCN inductees explicitly pledge to kill, if necessary, members of their own biological families in order to protect the LCN Family. A breach of omerta is punishable by death. After induction, LCN members can identify another LCN Family member by referring to him as a "Friend of Ours."

7. In 1991, **GIOACCHINI** and fellow LCN members Biagio DiGiacomo and Anthony "Spucky" Spagnolo, were convicted of racketeering in United States v. DiGiacomo, et al., Cr. No. 90-10065-WLF, in connection with their criminal activities as members of the New England LCN Family. **GIOACCHINI** was sentenced to 57 months in prison, rounding out a nearly thirty-year criminal history, including a pending firearms charge from 2000

in Suffolk Superior Court, currently scheduled to commence trial on January 26, 2004.

8. The evidence amassed during this investigation establishes **GIOACCHINI**'s involvement in collecting payments known alternatively as "tribute", "protection" or "rent" from bookmakers and loansharks who paid these monies in order to obtain his permission to operate their illegal businesses. In addition, the evidence establishes that **GIOACCHINI** resumed his LCN-related criminal activity in or around 1997, shortly after his release from prison on the federal racketeering conviction. **GIOACCHINI**'s collection of rent monies continued after his state firearms arrest in 2000.

9. Tape recordings made during this investigation captured **GIOACCHINI** in his own words discussing with **SIMONE** various people who paid them rent or who threatened those ongoing rent payments. During those conversations, **GIOACCHINI** refers to the commonly understood terms of paying rent: pay or shut down. In exchange for paying rent, **GIOACCHINI** provided protection. If rent was not paid, then the would-be rent collectors used violence or threats of violence to collect rent or forcibly terminate the businesses. **GIOACCHINI** also disclosed his willingness to use violence or murder to preserve his receipt of rent payments.

10. As the investigation continued, **GIOACCHINI** made sure that he was armed out of concern for his physical safety in light

of escalating tensions within the LCN. These tensions led to **GIOACCHINI** speculating aloud to **SIMONE**, and on recorded conversations, that he was being followed. **SIMONE** subsequently arranged for a brokered resolution of the factional dispute within the New England LCN Family, as discussed below, on behalf of all three co-defendants. **GIOACCHINI** and **SIMONE** were able to arrange this resolution because the LCN leadership respected these two Soldiers who had done a lot of "work" for the LCN. In this particular LCN context, "work" generally refers to violent acts and murder.

DEFENDANT FREDERICK A. "FREDDY" SIMONE

11. **SIMONE** has been an LCN member for thirty years. (Oct. 28, 2000 tape 2 prelim. tr., at 11.) **SIMONE** described **GIOACCHINI's** equally long LCN history best: "Forget about botherin' anybody. You [Gioacchini] been around thirty fuckin' years, you ain't supposed to have to be bothered." (Oct. 21, 2000 tape 3 prelim. tr., at 11.) **GIOACCHINI** has said that he "never . . . bothered a [F]riend of mine." (Oct. 28, 2000 tape 3 prelim. tr., at 16.) In other words, their thirty-year LCN legacy earned them the right not to be bothered.

12. **SIMONE** himself has previously demonstrated the deadly seriousness with which he took his vow of omerta to the New England LCN Family. In November 1987, **SIMONE** admitted that he took part in the brutal 1981 murder of Angelo Patrizzi whose

badly decomposed body was recovered in the trunk of a stolen car parked at a motel in Lynn, Massachusetts. Patrizzi's legs had been tightly hog-tied posteriorly to his neck, resulting in ligature strangulation. Title III surveillance conclusively established that **SIMONE** both set up the killing of Patrizzi and, along with several other LCN cohorts, killed Patrizzi. **SIMONE** pleaded guilty in November 1987 to one count of conspiracy to murder Patrizzi in Essex County Superior Court and was sentenced to 15-20 years in state prison. **SIMONE** completed that sentence in February 1998, whereupon he returned full-time to his criminal calling as a member of the LCN.

13. **SIMONE's** 1987 guilty plea ended one chapter of his participation in Family violence as he began another. A complete copy of a pretrial discovery package sent from the Essex County District Attorney's Office to **SIMONE's** counsel of record was recovered during a search of the home of the Capo to whom **SIMONE** had been assigned around the time of his 1987 guilty plea. **SIMONE** thus continued to protect LCN Family interests even while in prison for the LCN-engineered murder of Patrizzi that he had committed years earlier.

14. Shortly after his release from prison in February 1998, **SIMONE** resumed in full his criminal activity on behalf of the LCN. This investigation has produced evidence, including tape recordings of **SIMONE** himself outlining his LCN-related

loansharking and extortion activities. For example, **SIMONE** was intercepted in conversations with **WHITE**, Rhode Island Capo Matthew Guglielmetti and others, discussing how he arranged for Guglielmetti to take care of a gambling debt in New Hampshire that had been incurred by a bettor who was unable to pay for his losses. During those conversations, **SIMONE** related how he obtained Guglielmetti's assistance in ensuring that those responsible for the dead-beat bettor made good on the outstanding obligations.

15. **SIMONE** complemented his extortionate collection of tribute with a profitable loansharking business. **SIMONE** served as an LCN enforcer who collected illegal loans. In the following conversation, **SIMONE** stated how he would "face" or forcefully confront a debtor in Norwood in order to extort \$50,000, splitting the 50% share (\$25,000) equally with **GIOACCHINI** to whom he made the proposal. The debtor actually owed \$50,000 to recently assassinated LCN acting Capo Adolfo Bruno who had assigned this debtor to **SIMONE** and **GIOACCHINI** for them to collect, in exchange for half of the outstanding balance:

Frederick Simone: Norwood. Nice. Hey, what the fuck, why,
 I got all the numbers and everything.
 Call, make a meet, hey, pay this money.
 We'll face him. Take 25. Twelve five
 each. . . .

(Nov. 4, 2000 tape 2 prelim. tr., at 7-8.)

16. **SIMONE** used and relied on intermediaries to collect his

monies, whether rent or loan payments. Tape recordings demonstrate that **SIMONE** relied in part on his reputation for violence and as an LCN member to ensure compliance with his payment demands, both from his agents as well as his customers.

17. During the course of this investigation, **SIMONE** became increasingly concerned regarding his standing, as well as **GIOACCHINI's**, within the LCN. **GIOACCHINI** recounted a conversation he had with emerging nemesis, LCN member Anthony "Spucky" Spagnolo, who threatened to alienate or "shel[ve]"

GIOACCHINI:

Vincent Gioacchini: He [Spagnolo] says, ah, he's putting this thing back together. You ain't with us, you ain't entitled to nothing. We'll put you on a shelf. You're gonna put me on a shelf? He says we're gonna.

(Oct. 21, 2000 tape 1 prelim. tr., at 12.) That concern included heightened sensitivity regarding his own physical security, being careful to carry a firearm throughout the fall of 2000, culminating in his arrest on state firearms charges. In a tape-recorded conversation, **SIMONE** disclosed that he, **GIOACCHINI** and **WHITE** were carrying guns, fearing violence from another LCN faction. Corroborative of **SIMONE's** statement, police recovered a handgun from **WHITE's** armoire in a bedroom exclusively occupied by him when they executed a search warrant at his residence on

December 7, 2000.²

18. **SIMONE** and his colleagues solicited and received the assistance of Rhode Island Capo Matthew Guglielmetti in attempting to patch up this rift within the Boston faction of the New England LCN Family. Ultimately, with Guglielmetti's assistance, **SIMONE** and **GIOACCHINI** sought to report directly to the Rhode Island leadership, with the approval of Boston Underboss Alexander "Sonny Boy" Rizzo and Boston Capo Carmen DiNunzio.

19. The evidence collected during this investigation also includes recordings of **SIMONE** as he discussed the ongoing grand jury investigation into his LCN activities. The recordings demonstrate **SIMONE's** awareness of witnesses subpoenaed by the grand jury and includes his speculation regarding their likely testimony, the investigative consequences and the possible remedies he and his LCN associates could employ to control incriminatory witnesses. Thus, as alleged by the Indictment,

Guns were not the only weapon of choice. When **GIOACCHINI** was arrested in this case on December 1, 2003, the arresting officers recovered a folding knife with a serrated blade approximately four inches long, equipped with a thumb peg to facilitate one-handed opening. A photograph of the knife is attached hereto. **SIMONE** likewise had a folding pocket knife in his possession when he was arrested in May 2002 after he allegedly hit his paramour, Pamela Harris Daley, Esq., in an argument in the presence of her five-year-old son. Because this alleged assault occurred during **SIMONE's** pretrial release on his state firearms charge from 2000, **SIMONE** was jailed for 60 days.

SIMONE and **GIOACCHINI** continued their LCN-fueled criminal wrongdoing after their recent state firearms charges in 2000.

DEFENDANT FRANCIS "FRANNY" WHITE

20. For more than thirty years, **WHITE** has operated a loansharking business in East Boston, successfully avoiding investigation and prosecution numerous times in part because of his longstanding commitment to payment of "rent" - extorted protection money - to LCN figures who have steadfastly protected this valued money-maker physically and from law enforcement detection. **SIMONE** described **WHITE**'s extraordinary capabilities, lauding him as the potential LCN Boss, if it were not for **WHITE**'s half Irish ancestry:

Frederick Simone: You know he's [Francis White] gonna stand up, he's not Italian he's half Italian and half Irish but if the name was reversed, you know he would be the Boss, and that's the truth that's he's a sharp mother fucker he started from [LCN Capo Illario "Larry"] Biaone and he's been in a lot of shit for forty years without going through all of that shit, more than him. They use to call him [White] before him [Spagnolo], so figure that out. . . .

(Oct. 28, 2000 tape 3 prelim. tr., at 20.)

21. **WHITE** himself vouched for his mob associations as he described a law enforcement relative who refused to invite **WHITE** to a wedding because the relative knew of **WHITE**'s LCN association:

Francis White: Because he, he was the big detective for the State Police and The Attorney General. He knew me. Now he's retired now. Now he told the mother, that guy's [White's] involved with mob guy, murders, he told her mother. He's not coming to my daughter's wedding and Kathy wouldn't go, so if he can't go well I ain't going. We were getting along at that time.
(Unintelligible) Alex is born.

Frederick Simone: Who said this now? Kathy's father.

Francis White: Her uncle.

Frederick Simone: Oh her uncle.

Francis White: He ain't coming. That guy's not coming to my daughter's wedding.

Frederick Simone: How did he know you?

Francis White: Because he met me at a time.

(Oct. 28, 2000 tape 1 prelim. tr., at 29-30.)

22. **WHITE** pridefully held himself to the high loyalty standards of his LCN confederates. **SIMONE** described one incident in which **WHITE** was outraged about false accusations that he failed to provide financial support to a jailed LCN member. In the confrontation, **WHITE** claimed he had never been asked to provide financial help. His tone and manner strongly suggested that he would have provided financial assistance if a request had been made. **WHITE** was insulted by the implication that he would have refused money to an LCN member:

Frederick Simone: That's what I told Franny, stop with [LCN Soldier] Richie Gambale, and fuck this one. He fucked everybody ya. He told

Franny, "When my kid needed bail, you didn't help me." Franny said, "That's a fuckin' lie." He said, "I lived right around the fuckin' corner, not one of youse knocked at my door." "Not one of youse." He said, "Nobody come and seen you?" "No, and if you find somebody that did come and see me, bring 'em to me." So, he shut up. Ya, he got an obsession with him, too.

Vincent Gioacchini: Yup.

(Oct. 21, 2000 tape 3 prelim. tr., at 5.)

23. In addition, **WHITE** collaborated with **SIMONE** in loansharking. Evidence obtained during the course of this investigation established that **WHITE** knowingly supplied some of the monies which financed **SIMONE's** loansharking. In **GIOACCHINI's** and **SIMONE's** words:

Vincent Gioacchini: He said, I said Franny's [White] with Freddy [Simone].

Frederick Simone: Yeah.

Vincent Gioacchini: Does things with Freddy [Simone].

Frederick Simone: Yeah.

(Oct. 21, 2000 tape 1 prelim. tr., at 14.)

24. Apart from **WHITE's** involvement in **SIMONE's** loansharking, **WHITE** himself operated as a loanshark. The evidence from this investigation establishes that **WHITE** himself made loans at usurious rates, sometimes subject to **SIMONE's** explicit approval, for many years. People who did business with **WHITE** feared recrimination from **WHITE's** associates, such as

SIMONE and other LCN members, if they did not comply with the terms of **WHITE**'s financing. **WHITE** even financed bookmakers who were in occasional need of large quantities of cash to pay off gambling debts. In nearly every loan, the borrower made regular payments of interest or "vigorish" to **WHITE**, fearing the consequences of not doing so from **WHITE**'s LCN connections.

WHITE's illegal loansharking business benefitted considerably from the reputations of his associates like **SIMONE** and other LCN members.

25. **WHITE** apparently valued his relationship with **SIMONE**, at least in part, because one of its benefits included **SIMONE**'s protection. Indeed, **WHITE** traded on customers' concerns of potentially violent recrimination of known LCN Soldiers like **SIMONE** and others who were also known associates of **WHITE**.

26. **SIMONE** was not the only LCN member with whom **WHITE** had associated himself in order to increase his criminal profits. For example, **SIMONE** described how **WHITE** had previously partnered himself with former LCN Underboss Joseph Russo, a relationship which profited both the LCN and **WHITE**: "Joe told him, now him [White] and Joe were partners for years. Now, he made Joe tons of money." (Nov. 14, 2000 prelim. tr., at 36.)

27. The wiretap evidence includes several revealing and incriminating conversations by and among defendants **SIMONE**,

GIOACCHINI and **WHITE**. The following excerpts provide a selected summary.

SOPHISTICATION IN EVADING LAW ENFORCEMENT

28. The three co-defendants have demonstrated their knowledge of how to evade law enforcement detection, as well as of the potential consequences of being caught. On October 21, 2000, **GIOACCHINI** reaffirmed the obvious, not knowing he was being recorded while speaking with **SIMONE** at the latter's house: "You're not suppose to say nothing on the phone you gotta be fuckin' idiot, to fuckin' say anything on a fuckin' phone." (Oct. 21, 2000 tape 2 prelim. tr., at 2.) For example, during the course of this investigation, **SIMONE** employed non-LCN intermediaries to make arrangements with recently assassinated and Springfield-based LCN acting Capo Adolfo Bruno of the New York-based Genovese LCN Family, in an attempt to broker the peace in an intra-LCN rift, described below in greater detail, that threatened the livelihood and security of **SIMONE**, **GIOACCHINI** and **WHITE**.

29. **GIOACCHINI** also revealed how he had a fraudulent driver's license, presumably to facilitate law enforcement evasion: "I had my picture with someone else's fucking name." (Nov. 4, 2000 tape 1 prelim. tr., at 3.) From my training and experience, I know that LCN and other organized crime members and associates have successfully assisted long-time fugitives in

evading apprehension by the use of false identification documents.

30. **SIMONE** and **GIOACCHINI** were even aware of law enforcement agents - they know them by name - and the potential threat they pose to their LCN operations. They discussed the problem that others are insufficiently concerned or oblivious and the dangers they pose to the LCN and its members:

Vincent Gioacchini: I said, "look, look at you, fuckin' eyes are all bloodshot. Go put your fuckin' act together." I said, "go, do you realize you're still on paper [supervised release]? Do you realize that you're still on fuckin' fuckin' paper?"

Frederick Simone: What he say.

Vincent Gioacchini: I don't care. I don't care about the FBI. I don't care about nobody.

Frederick Simone: He told a guy, he told a guy, he says, (unintelligible).

Vincent Gioacchini: I'm on TV every night he said.

Frederick Simone: I says with [convicted FBI Special Agent John] Connolly.

Vincent Gioacchini: And, your buddy's back in town, too," I said. He said, "Who's that?" I said, "Vinny Delamontagne [an undercover FBI agent who was integrally involved in the investigation culminating in the indictment and conviction of Gioacchini in and around 1990]." He said, "Well, what do you want me to.

Frederick Simone: Did you tell him?

Vincent Gioacchini: "You're fuckin' right back in town."

Frederick Simone: So you told him?

Vincent Gioacchini: Ya. I says, I said, I just spotted him and fuckin' [FBI Special Agent] Jimmy Siracusa.

Frederick Simone: Jimmy Siracusa.

Vincent Gioacchini: Ya.

Frederick Simone: Ya.

Vincent Gioacchini: So, I hope you know what you're doin'. No, I'm, I'm surprised that they, they didn't fuckin' violate him [on his release], yet.

Frederick Simone: (Unintelligible.) You know why? 'Cause there is a reason.

Vincent Gioacchini: They want him to know, to see what the fuck he is doin'.

Frederick Simone: Ya, what do you mean?

Vincent Gioacchini: You got it all.

Frederick Simone: Well.

Vincent Gioacchini: All over, all over, all over the fuckin' street.

Frederick Simone: I do something dumb, you do something dumb.

(Oct. 21, 2000 tape 2 prelim. tr., at 16-17.) **GIOACCHINI** was concerned that his emerging enemy, Spucky Spagnolo, may likewise be attracting federal attention:

Vincent Gioacchini: They people around Spucky. I'm a fuckin' scared he's got another Fed [like Delamontagne] around him. He's gonna one of these young fuckin' kids working with the law. That's how fuckin' stupid he is. You think the Feds go and grab they go and grab that kid fuckin' Mark what the fuck Mark something. They go and grab him. This kid will turn on a fuckin' in a heart

beat in a heart beat.

(Oct. 21, 2000 tape 4 prelim. tr., at 4.)

31. **WHITE** in particular has been historically meticulous in his efforts to avoid provable association with his LCN members and associates and vigorish-paying debtors: "They [the debtors] didn't come over my house I don't want no heat on me." (Oct. 28, 2000 tape 1 prelim. tr., at 20.) **WHITE** recognized the potential pitfalls of LCN association and avoided provable association, while nevertheless enjoying equally the potential benefits from his LCN association which he plainly cultivated with **SIMONE** and others, as the following conversations will demonstrate.

32. **SIMONE** explained to an enthusiastic **WHITE** how one of his rent-paying bookmakers wanted to pay more than one month's share to avoid having to see **SIMONE** monthly, reducing the visible connection between the bookmaker and the rent collectors:

Francis White: The Greek [a bookmaker] go down?

Frederick Simone: "My Greek." He went and took him down there and probably told him, "Listen, but he got fucked in the ass 'cause the Greek gave me ten thousand all at once." He said, "Freddy, instead of me seeing me every month," he said, "this way I stay away from you." He said, "Here," he said, "take ten thousand." He said, "I'll see ya in ten months." How's that? He got fucked in the ass. He's smart.

Francis White: He's smart. He's a bookie. He's smart.

Frederick Simone: Yeah. (Unintelligible.) He said, "This way," he said, "there's no connection no

nothin'." Yeah.

(Oct. 28, 2000 tape 1 prelim. tr., at 20.)

33. Showing his street savvy in evading law enforcement detection, **WHITE** liked this technique and suggested that **SIMONE** employ it with other bookmakers. In doing so, **WHITE** displayed his active involvement in **SIMONE**'s LCN-related criminal business and his interest that the business not draw the attention of law enforcement:

Francis White: I'm saying this it's perfect his rent see I need it. I need it, that's it I need it. Right now other than that he'll give it to you like this.

(Oct. 28, 2000 tape 1 prelim. tr., at 22.) "Rent" in this context refers to the collection of extortionate payments.

KNOWLEDGEABLE ABOUT THE CRIMINAL PROCESS

34. **SIMONE** and **GIOACCHINI** know the potential punishment for certain crimes like carrying a firearm:

Frederick Simone: Ya, but what good is that? I bought this (unintelligible) right here. If the guys dies with his eyes wide open like this. If I had gotten in that car. How about the Pig? The Pig had a fuckin' heart attack. Who's in the house? Who's in the house? Get in there you mother fucker. He says, put that away, put that away, put that away! I said what what what are you doing you mother fucker? I says.

Vincent Gioacchini: That's what, that's what they're lookin' for.

Frederick Simone: They're looking to scare you.

Vincent Gioacchini: That's what they're lookin' for. They're lookin' for you to carry a pistol.

Frederick Simone: And they're gonna can rat on me.

Vincent Gioacchini: Yeah.

Frederick Simone: That's why they called up the lawyer. Freddy's goin' to jail. They wanted to see scare me so that I don't carry [a gun] and catch me naked [unarmed].

Vincent Gioacchini: Yeah.

Frederick Simone: They figure, oh I'm gonna get ratted on so I'm not, that's ten years for me and you, you know?

Vincent Gioacchini: That's a fifteen (unintelligible) [-year prison sentence].

Frederick Simone: It's ten, it's ten.

Vincent Gioacchini: That's a fifteen.

Frederick Simone: Convicted felon. I looked it up with the lawyer yeah. Convicted felon, in possession of a weapon is ten years.

Vincent Gioacchini: Ten years (unintelligible).

Frederick Simone: That's what you get. No, you got to do it all. There's no good time.

Vincent Gioacchini: No good time?

Frederick Simone: No good time. Day for day. And they would love for me to do a sawbuck [10 years] they would love it. And I'm gonna tell ya somethin'. They're gonna rat on me and I know they're gonna, now listen to me. And I know they got 'em. Now you listen to me. Talkin' on the telephones. Freddy's runnin' around with a gun. I had to. I don't give a fuck. . . .

(Oct. 21, 2000 tape 1 prelim. tr., at 32-34.)

35. **SIMONE** and **GIOACCHINI** demonstrated their legal sophistication as they discussed the differences between state and federal prosecutions when they talked about the fate of a rent-paying bookmaker who is the defendant in United States v. Carmine T. D'Amelio, a/k/a "Junior", Crim. No. 03-10355-DPW:

Frederick Simone: Hey, you know your cousin got indicted by the feds, you know that right?

Vincent Gioacchini: Who's that?

Frederick Simone: Junior [Carmine D'Amelio].

Vincent Gioacchini: Junior who, D'Amelio?

Frederick Simone: Ya.

Vincent Gioacchini: They boosted it up to the feds. Yeah.

Frederick Simone: He had a state beef, with the bookmaking thing.

Vincent Gioacchini: Ya.

Frederick Simone: Now it's no more State, it's federal. There busted it up to the feds.

Vincent Gioacchini: That's because it's RICO [Racketeer Influenced Corrupt Organizations].

Frederick Simone: Now so he's gonna go away [to prison]. There's no question about him. That fat fucking pig up here.

Vincent Gioacchini: That's because of the fucking, what do you call it, the out of state thing.

Frederick Simone: Out of state, ya.

Vincent Gioacchini: Ya.

Frederick Simone: That's from [Vinny] Roberto calling in from Florida. But not only that I guess.

Vincent Gioacchini: Probably usin' computers.

Frederick Simone: They been doing the fucking thing down the islands. That's inter-country, that's Interpol.

Vincent Gioacchini: Ya, with that Spiro.

Frederick Simone: Ya, Spiro. They're doing everything over the computers.

Vincent Gioacchini: Right, right.

Frederick Simone: Ya, (unintelligible). They took it away from the state. They took it away from the state. Now the feds got it. So how that's gonna fucking go (unintelligible) the feds are gonna boot it up. They'll shatter them. They'll shatter them. Now this fat piece of shit is, the Tony told me he said (unintelligible) that happened last week, he's sick, he's sick (unintelligible). . . .

(Nov. 4, 2000 tape 1 prelim. tr., at 27-28.) This sophistication permitted them to make calculated decisions about their criminal conduct, rationally weighing the costs of getting caught against the benefits to themselves and the LCN of committing the crimes.

EXTENSIVE LCN SUPPORT NETWORK

36. Elsewhere, **SIMONE** and **GIOACCHINI** described the LCN network. In particular, they discussed how they have previously provided and received assistance to and from other LCN members who were in prison, including engaging in apparent insurance fraud as a means to trade financial benefits among LCN members:

Frederick Simone: Did you hear from [LCN Capo] Bobby [Carrozza, a/k/a Russo, who is in prison]? What's Bobby Russo doing?

Vincent Gioacchini: Ah, last time I talked to him was ah my daughter's birthday.

Frederick Simone: Yeah. What.

Vincent Gioacchini: My daughter's birthday party and ah Mae. I invited Mae Mae and the daughter. Then ah, she came and she goes Dee Dee ah, here he wants to talk to you on the phone. Because he told me to call he told me to call, when when I got there.

Frederick Simone: Right, right.

Vincent Gioacchini: Because I usually call him so he said well, he didn't want, he didn't want. Ah.

Frederick Simone: How can she call him?

Vincent Gioacchini: He called her.

Frederick Simone: Oh he called her, oh yeah.

Vincent Gioacchini: So he says he didn't want to talk to her he says go put him on the phone. He wanted to talk to me he didn't want to talk. He said no go (unintelligible) go and put that put that ah, that guy on the phone. He said he don't even want to talk to me he wants to talk to you first.

Frederick Simone: What did he say?

Vincent Gioacchini: Nothing. How you doing and this and that. He said I heard a lot of fuckin' just be careful. I heard a lot of fuckin' bad things.

Frederick Simone: Really.

Vincent Gioacchini: You know. He said just watch your fuckin' watch your back. He said I'll be I'll be home soon he said. I'll be home soon. If I get lucky I'll be home very soon. I said that's good Bobby you know what I mean? He said you know I, I appreciate it what your done ah for for my ah, for my ah my wife and my daughter you sent the guy

up to fix the whole house. In which I did. I sent the roofer up there, now don't charge them nothing. Done the whole roof.

Frederick Simone: Nice.

Vincent Gioacchini: All rubber roof, shingles ah I made him money for his pocket.

Frederick Simone: Yeah.

Vincent Gioacchini: I put ah thirty five hundred in their pocket and then ah we had do the lights. Now put another claim for all the lights around the house another Phantom. Put that in your pocket too. I made the kid go up there, fix the whole house and threw thirty five hundred in the pocket.

Frederick Simone: Umm.

(Oct. 21, 2000 tape 4 prelim. tr., at 25-26.) This conversation demonstrates how the LCN and its members continue to function, even when incarcerated, and how their oaths of loyalty persist, despite incarceration. Similarly, these mechanics demonstrate the sophistication of LCN communications which assist their ongoing law enforcement evasion and continual criminal activities. **SIMONE** employed similar tactics when he himself had been incarcerated, communicating in coded conversations about LCN business with **GIOACCHINI**, other LCN members, associates or intermediaries.

STRONG, LONG-STANDING LOYALTY

37. The recorded conversations evidence the co-defendants' entrenched loyalties to one another. **SIMONE's** own words best

describe his lengthy LCN history with **GIOACCHINI** and **WHITE**:

"Well, lets, lets put it this way. We got 100 years between [us] in on the street." (Oct. 28, 2000 tape 1 prelim. tr., at 1.)

They continued:

Vincent Gioacchini: I'm glad you came here, you know why? I feel fuckin', I feel like you're, you're my guardian angel.

Frederick Simone: No, I'm gonna say, you know what I'm gonna do?

Vincent Gioacchini: "You're my guardian angel."

(Oct. 21, 2000 tape 2 prelim. tr., at 32.) **SIMONE** recapped their shared understanding, "Now you with us or against us." (Oct. 21, 2000 tape 4 prelim. tr., at 1 (discussing Spagnolo's conversation).) With these simple words, **SIMONE**, **GIOACCHINI** and **WHITE** mutually expressed their longstanding loyalty to one another and decades of shared LCN history.

38. **SIMONE** has previously demonstrated that his loyalty to **GIOACCHINI** takes precedence over his oath to tell the truth to Judge Wolf in United States v. Anthony Cardinale, Crim. No. 97-10267. In that case, Judge Wolf had granted **SIMONE** immunity. In the following exchange, **SIMONE** refused to identify **GIOACCHINI** by the nickname "Glasses," a person who **SIMONE** elsewhere described by saying, "the guy with the glasses is crazy [violent]". (Oct. 29, 2000 prelim. tr., at 18.). **SIMONE** testified in front of Judge Wolf as follows:

AUSA Brian Kelly: Who's Glasses?

Frederick Simone: I'm not going to answer that.

Mr. Cardinale: Objection, your Honor.

.

Judge Wolf: The objection is overruled, and you are ordered to answer the question.

Frederick Simone: Your Honor, I'm not going to answer them questions. I want to answer all the questions I can to help the Court with the Cardinale case, but I'm not going to answer any names and bring any other people in on the thing. If you want my help with the Court, you know, I'm trying to do the right thing for the Cardinale case, but this other stuff here, I know their sons, daughters, and what not, and I don't want to bring them in.

(Oct. 20, 1997 tr., at 71-72.) After Judge Wolf warned **SIMONE** of the possibility of civil or criminal contempt, **SIMONE** responded:

"I understand that, your Honor. But you need peace of mind sometimes." (Id. at 73.) Elsewhere, **SIMONE** claimed that he was

"Glasses". (Id. at 75.) Elsewhere, **SIMONE** acknowledged

"Glasses" was not him, but he would not say who it was.

AUSA Brian Kelly: But on occasion when Mr. Jackie Salemmé told you somebody nicknamed Glasses had seen the informant documents, that person was referred to Glasses, and it wasn't you?

Frederick Simone: Once, right.

AUSA Brian Kelly: And that's what you're refusing to tell us, that person's name?

Frederick Simone: Exactly.

(Id. at 77. See also id. at 78 (containing similar colloquy).)

SIMONE repeatedly rebuffed Judge Wolf's admonitions:

Frederick Simone: Exactly. He [Salemme] wanted that clear in my mind so I could make it clear in other people's minds.

Judge Wolf: What other people?

Frederick Simone: Whoever.

Judge Wolf: What other people?

Frederick Simone: I refuse to answer that, your Honor.

Judge Wolf: Do you understand that that's a subject of possible civil contempt, and that's a subject of possible criminal contempt?

Frederick Simone: I understand.

(Id. at 132.) **SIMONE** elsewhere set forth his bottom line. When asked, "Do you understand the immunity order compels you to answer any question?", **SIMONE** replied: "I understand that. I have to have pe[a]ce of mind." Id. at 181. He continued: "I was always taught: If you don't like the seat you're sitting in, don't put nobody else in it. And I'm not gonna do that. So, it's not only Glasses. No matter who you mentioned, if they're not involved in this thing, I'm not putting them involved. That goes against my principles." (Id. at 186.) After **SIMONE's** consistently contemptuous behavior, Judge Wolf concluded: "[I]t's professional disturbing that [**SIMONE**] would choose not to answer questions." (Id. at 210.)

39. **WHITE's** loyalty to **SIMONE** and **GIOACCHINI** is likewise

strong as he is one of several loyal followers:

Vincent Gioacchini: Nobody, Franny [White].

Frederick Simone: He's a class act.

Vincent Gioacchini: You, Franny.

Frederick Simone: Joe [Young], Joe's a, Joe's a class act.

Vincent Gioacchini: Good.

Frederick Simone: These guys all respect you, they always did respect you and that's the end of it. Joe loves you, Franny loves you, that kid Johnny, his cousin, never bothered you, always talked good about you, John Demarco.

Vincent Gioacchini: Oh yeah.

Frederick Simone: Always talked good about you, never fuckin' disrespect you, all the time. I mean, no, at, at, at least you, you got.

Vincent Gioacchini: Freddy, I don't bother, I got nothing to add (unintelligible).

(Oct. 21, 2000 tape 3 prelim. tr., at 17-18.) **SIMONE** thus vouched for **WHITE** to **GIOACCHINI**.

40. **GIOACCHINI** outlined the threesome:

Frederick Simone: All right. You're getting blamed. Get him Dee, we'll get him.

Vincent Gioacchini: Even if I was, I said, Fra, Franny's [White] my friend.

Frederick Simone: Yeah.

Vincent Gioacchini: Freddy's [Simone] my friend just like you are Spucky.

Frederick Simone: Yeah.

Vincent Gioacchini: Unless you tell me different that you're

not.

(Oct. 21, 2000 tape 4 prelim. tr., at 7.) These co-defendants are friends and Friends, in the LCN sense.

41. **SIMONE** acknowledged **WHITE's** stature as a loanshark, one-time bookmaker and long-time LCN associate:

Anthony Cataldo: (Unintelligible) jerkoff like this only one bookmaker I had respect for.

Frederick Simone: Yeah.

Anthony Cataldo: (Unintelligible.)

Frederick Simone: Who's that?

Anthony Cataldo: I'm not sayin' that because he's your friend.

Frederick Simone: Who's that?

Anthony Cataldo: Franny [White].

Frederick Simone: Oh, yeah.

Anthony Cataldo: Every fucking (unintelligible). That's the bottom line. You know why?

Frederick Simone: Solid, yeah, he's solid.
(Unintelligible.) Listen to me. Not only that, Franny's been with us.

Anthony Cataldo: Yeah.

Frederick Simone: For years.

Anthony Cataldo: Good. I know that.

(Nov. 14, 2000 tape 1 prelim. tr., at 33-34.)

USE OF VIOLENCE AND INTIMIDATION TO PROTECT BUSINESS INTERESTS

42. **GIOACCHINI** discussed his contempt for those who tried to avoid paying rent. He recounted one incident:

Vincent Gioacchini: Would you believe that, put that, fuckin' package together for him. Then he gave him the car, he sold the fuckin' car, instead of comin' back and sayin', "Here's your car, I need a couple of fuckin' dollars for (unintelligible). He went and sold the fuckin' car. Then the stupid bastard rats himself out to me. He says, "Oh, ya he needs the fuckin' three thousand, to pay his taxes on the fuckin' house, and ah, me and Albie [Sacramone, once an LCN associate] had to," I says, "What? You and Albie," I says, he says, "Ya, I gave him another two thousand, Albie gave a thousand." "Now," he says, "now bells started ringin' in my head, started ringin' in my head, he's lookin' for that free ride."

Frederick Simone: Oh, he's lookin'.

Vincent Gioacchini: You got it.

Frederick Simone: For a free ride.

Vincent Gioacchini: You got it.

(Oct. 21, 2000 tape 3 prelim. tr., at 1 (emphasis added).)

GIOACCHINI's tone, along with **SIMONE's**, showed their contempt of rent payors who seek to avoid their responsibilities. **GIOACCHINI** elsewhere described his conversation with loanshark Joe Young who tried to shirk paying rent:

Vincent Gioacchini: Come here fuck face. What, you want to talk to me? I don't like the tone of your fuckin' voice, you understand? Well come on let's go outside and lets, fuck, I want to hear what the fuck wants to come out of your fuckin' fast talking fuckin' mouth now.
. . . .

(Oct. 21, 2000 tape 1 prelim. tr., at 11-12.)

43. **SIMONE** talked about what he intended to do to someone who threatened his criminal profits:

Frederick Simone: As simple as that. He's gone. Believe me. He can't walk now? I'm gonna hit him with a fucking bat on his legs, Mike, I am gonna start from here boom bang. Knees.

Michael Dezotell: Ha ha ha.

Frederick Simone: His ankles. He's gonna be all busted up. I don't even want to kill him. I just want to put him in a cast. That's what I want to do with him. I gonna put him in the bed. That way he can't go to Florida.

Michael Dezotell: Somebody has to be given up.

Frederick Simone: How about they getting you one of your fucking nuts.

Michael Dezotell: You know, someone's gonna, someone's gonna be giving you.

Frederick Simone: Now, here's what he did the fucking piece of shit. He took the Greek to Pryce [Quintina, an LCN Soldier] and made the Greek give Pryce fifteen hundred [\$1,500.00] when he come home from fucking jail. Behind my back. Now that ain't nice.

Michael Dezotell: No.

Frederick Simone: That ain't nice. Okay? Let me tell you something. I'm gonna start from here and go all the way down to the ankles. Then I'm gonna tell him, this is for Mike you fucking punk, you called him a rat.

Michael Dezotell: Ha ha ha.

Frederick Simone: I don't, Let me tell you something. I sat down, I told Rocco [Argenti, the now deceased LCN Capo and Consigliere] I gonna smash La capa buona [translated means the head good] (unintelligible) boom. He, he

thinks he's gonna go to Florida on the 15th. If it's him, Mike when I tell you.

(Oct. 29, 2000 prelim. tr., at 3-4.) Violence or the threat of violence thus protected the business.

44. The defendants showed loyalty mutually to their loyal money-makers. **GIOACCHINI**, for example, pledged to "go back to grab Junior [D'Amelio], I'll make another spot for him" so that this bookmaker could continue to pay rent safely to **GIOACCHINI** without being threatened by a rival. (Oct. 21, 2000 tape 2 prelim. tr. at 27.)

45. **GIOACCHINI** outlined one scenario he envisioned in order to collect rent from a reluctant payor and how he assessed that the refusal to pay rent was somehow related to the emerging intra-LCN rift:

Vincent Gioacchini: Anyway, the guy that I had (unintelligible) piece of fuckin' shit. I'll get him and Mikey [Stoyco, a loanshark]. Then I'm gonna handcuff 'em to the fuckin' pole outside, stark naked. Now go tell your fuckin' buddy, I'm waitin' for him. Come on down with his three hundred fuckin'. Let him come personally, by himself.

Frederick Simone: Ya, what a case.

Vincent Gioacchini: Fuck it I says nah, let me just fuckin' wait, wait, wait. And then I says, "I know if he, he, he goes and, and, and," approaches Junior, now I know the guys got a fuckin' personal fuckin' thing with me. Which he does.

(Oct. 21, 2000 tape 3 prelim. tr., at 6-7.)

46. As the emerging intra-LCN strife threatened rent payments for **SIMONE** and **GIOACCHINI**, the two resiliently tried to hold on to their money makers as they were threatened by a rival element led by Spagnolo and others.

Vincent Gioacchini: Heh, remember when I told the guy Joe, I said listen, I know I know why you done what you done, you gave him you kept on feeding and feeding because you were too scared and you fed him and fed him and you bought I know what you done I know what you done. I mean you bought you bought your way out. Out of fear. But that's all right I told him. That's all right I wish you all the luck in the world that fuckin' road you want to go down. Instead in the beginning just tell him listen I'm doing things with Dee Dee and that's who I'm gonna stay with. You didn't do what Dee Dee (unintelligible). You done it out of fuckin' fear because he came on to you.

Frederick Simone: No, we're getting him back.

Vincent Gioacchini: Nah.

Frederick Simone: We're gonna get him back, don't worry about it.

Vincent Gioacchini: Nah, this fuckin' army that he (unintelligible).

Frederick Simone: We're gonna get him back.

Vincent Gioacchini: Because you like these like that Joe. You like things were so fuckin' calm until this mother fucker came into your fuckin' life.

Frederick Simone: Right.

Vincent Gioacchini: Now he don't know how to get out of it because you're fuckin' petri, you're scared you're scared.

Frederick Simone: Yeah. Yeah but we gonna go, we're gonna get him back Joe.

(Oct. 21, 2000 tape 4 prelim. tr., at 5 (emphasis added).) In other words, **SIMONE** and **GIOACCHINI** will exact revenge to return the rent payor to the rightful, in their minds, owners.

47. **GIOACCHINI** in particular was outraged at Spagnolo's taking over his rent payors and, by doing so, he describes LCN protocol for settling disputes:

Vincent Gioacchini: See I got a guy who pays every month. Okay. Meantime Spucky's in the can. I'm out with this [gun] here protecting this guy with the fuckin' every fuckin' day. Okay, now all of a sudden Spucky comes home from the fuckin' can, goes down there and tells him. You don't give that fuckin' guy nothin'. You don't give him nothin'. If he has somethin' to say have him come see me. Took away two rents. I said Spucky, what's the story here? He's with me. I said Spucky, how the fuck can he be with you? You were in the fuckin' can while I was out here protecting this guy's fuckin' back. He says, well he's with me. I say, all right, but, ahhh, he says, I said Spucky what's ah wh, what's this here it looks like you got a fuckin' vendetta or somethin'. What seems to be your fuckin' problem. We got a history together. He says, you know what happened thirty fuckin' years ago when you made that fuckin' score? Spucky, that's thirty fuckin' years ago, I asked you, I got a score coming down, I need someone to fuckin' watch my back, I asked Bobby [Carozza, then an LCN Soldier and subsequently an LCN Capo]. Bobby says I don't want no part of it. I asked you, you want a piece of it, I need someone to watch my back because of repercussions, you said I'm with Bobby. I asked Sammy [Granito, an LCN Capo] he was right there,

he said I don't want nothing. The score come off, youse had me in a fuckin' room up in fuckin' Gerry's [Angiulo, the former LCN Underboss] fuckin' mansion over there, had a big fuckin' sit down.

Frederick Simone: After the score come up he offered them all a piece, none of them took it, then they took him up on charges.

Vincent Gioacchini: Then they took me they wanted to get me fuckin' whacked.

Frederick Simone: Tell 'em what Gerry said.

Vincent Gioacchini: Now, we're up there, everybody, Gerry [Angiulo, former LCN Underboss], ah, and Danny [Angiulo, former LCN Capo], Franky [Angiulo, former LCN Soldier], Sammy [Granito, former LCN Capo], they're all up there, Bobby and Spucky and ah, I don't know if Gerry's brother was there at the time, I can't recollect that, but the thing was, I fuckin' robbed Gassy [Joseph Gassiraro, a now deceased and previously convicted drug dealer]. I robbed fuckin' Gassy and I took it off and I told him, you know I explained the whole thing. I go onto you know, he's infiltrating fuckin' shit through your fuckin' city and I robbed him. He says, good. Rob him again. Then he told them, you, Bobby, you, you got nothin' comin'. Spucky, you got nothin' comin'. Sammy, if he wants to give you somethin' from the kindness of his heart that's all well and good. That's entirely up to him. And I went and gave Sammy an envelope and I gave Gerry an envelope. Hey, now you want to bring that up.

Frederick Simone: He brought that up. He said I hated you for thirty years ago. Now what the fuck is that. I come to you and tell you watch my back and you get a piece of the score and you refuse it.

Vincent Gioacchini: Then he goes ah, then he goes ah.

Frederick Simone: And he did the same with [Mark] Rossetti [a former LCN Soldier and current Capo] . He use to shake Rossetti down.

Vincent Gioacchini: When you go.

Frederick Simone: Rossetti used to go (unintelligible) and shake him down afterwards.

Vincent Gioacchini: You go back, you go back go back and tell that guy. You go back and tell that guy, if he's giving you this I want it too or shut his business down. I went back and told the guy, listen, between you and your partner there, that's what it's gonna cost you there, a fuckin' dime a month, or shut your business down. The next day he comes out he tells the guy oh I don't want nothing. So the guy pays me. A week later he comes down, I told you not to give him nothing. Now he's got this guy fuckin' petrified.

Frederick Simone: Yeah.

(Oct. 28, 2000 tape 2 prelim. tr., at 29-31 (emphasis added).)

48. **GIOACCHINI** made clear his motive for wanting to protect his rent payors - he needed the money because he made his living off of his criminal activity.

Vincent Gioacchini: I rather go to work Freddy, I ain't got nothing on the street anyways. I told you I got fuckin', I got nothing. I got absolutely fuckin' nothing. What I have, I'll chop it all up.

Frederick Simone: Yeah.

Vincent Gioacchini: I'll chop it all up and go to work Freddy.

Frederick Simone: Yeah.

Vincent Gioacchini: I mean I'm not makin' nothing with these two rents (unintelligible). I can't live off two rents. I need seven hundred a

fuckin' week to live. I need a g-note (\$1000.00) to live comfortable.

Frederick Simone: Oh yeah.

Vincent Gioacchini: You know I need five hundred for bills, I need two hundred for fuckin' food, that ain't including my daughter all the time, dad, dad, dad, blow this that school, and like that.

Frederick Simone: Yeah. Yeah.

Vincent Gioacchini: I was lucky when I came home I made a couple of fuckin' scores. That I put it away for her schooling, you know that's money I made that I made in a fuckin' score. I made a couple of scores that's it.

(Oct. 21, 2000 tape 4 prelim. tr. at 11-12 (emphasis added).)

From my training and experience, I know that "scores" in this context refers to criminal acts.

49. Concerned about the decreasing number of rent payors, **GIOACCHINI** and **SIMONE** pledged to take back their rightful share by force:

Vincent Gioacchini: Before you stay with me before you get yourself in fuckin' trouble and that's it. And I don't know what else do Freddy. I can't, I can't, I, you know before it was good I was making money on the street and everything just collapsed. I had, I had, a decent bank [group of people paying rent] it went right down to two, two guys. That's that. And the the other two Junior [Carmino D'Amelio, a bookmaker] and Joe [Young, a loanshark], that's it.

Frederick Simone: Because of this mother fuckin' nut [Spagnolo] (unintelligible).

Vincent Gioacchini: (Unintelligible) I be honest with you.

Frederick Simone: Can't leave people the fuck alone.

Vincent Gioacchini: I'm gonna tell you my come right from my fuckin' heart. If I ever out with my fuckin' wife or my kid and I ever catch anybody looking at me the wrong fuckin' way, I'm going right to his fuckin' house, no questions asked. Then I'm gonna go right to his and I'm going right the line. Sonny [Boy Rizzo, LCN Underboss] all of them. Sonny all of them that's it.

Frederick Simone: Make sure you call me.

Vincent Gioacchini: You, one I catch one fuckin' person follow, tailing me, looking anything, I'm going right to his fuckin' house and that's it. That's the bottom line, now lets get it on. Now I'll quit fuckin' work and I'll devote my time to the fuckin' street and I'll annihilate everybody. Now, now, now, now you got my back up against the wall, now you got my back up against the wall.

(Oct. 21, 2000 tape 4 prelim. tr., at 22-23 (emphasis added).)

In other words, **SIMONE** and **GIOACCHINI** will take personally any threats against them and they will exact punishment personally from those who threaten them. As **SIMONE** has said: "You don't want guys like us acting paranoid." (Nov. 4, 2000 tape 2 prelim. tr., at 7.)

50. One somewhat protracted conversation highlights the direct connection between defendants' illegal activities and their willingness to use violence to collect their money. The three co-defendants **SIMONE**, **GIOACCHINI** and **WHITE** each described what they would do to Rhode Island Capo Matthew Guglielmetti if they discovered that Guglielmetti was secretly deceiving them by

playing both sides of the LCN dispute. This conversation demonstrates the potentially violent and fratricidal nature of the LCN. The three co-defendants contemplated aloud the possibility of having to kill Rhode Island Capo Matthew Guglielmetti, depending on what he had to tell them:

Frederick Simone: I told him [Guglielmetti] guys were going to be here. I don't want him to walk in and think we're going to kill him in the fuckin' house, now, you know. We got no beef with him.

Francis White: No.

(Oct. 28, 2000 tape 1 prelim. tr., at 5.) The conversation continued with vivid possible murder:

Vincent Gioacchini: You think it's all right with these two [Guglielmetti and an associate] comin' to the house?

Frederick Simone: Dee -- you see this [gun]? I'll put one [bullet] right in their fuckin' head. That's it. It's as simple as that.

Vincent Gioacchini: Go down the fuckin' down the store or something.

Frederick Simone: No you can't--no this is safe. Nobody lives here. I'll clean up and that's the end of it. I'll fuckin' bang [shoot] him right here. That's on my dead father and mother. That's it. I don't give a fuck. That's it. That's it. I'll fuckin' bang him right here. That's the truth! That's the fuckin'. I don't give a fuck. I doubt I'm at that point. I did fifteen, eighteen [years in prison] in my life I'll do another fifteen, I don't give a fuck. You think I care? I don't give a fuck. That's now -- you know he's gettin' me to the point now where I didn't think much of it. I told him to tell you to. I told

him to tell you to. But he's got one too on him. But ahhh, I know one thing I ain't gonna fuckin' play with him. But this is all the fuckin' shit this is what I'm tryin' to tell ya. This is all the shit. "I got three hundred guys I got this I got that I got this I got my Hell's Angels," now you got fuckin' dead fish in doorways and on cars. This is all H B -- this is Soprano shit! You're dealin' with 25, 30 year old fuckin' asshole junkie mother fuckers that don't even belong to be talked to they usually ain't supposed to even talk to these kind of fuckin' assholes. Now this guy here's tellin' me, he said this guy here said it's a disgrace what they're doin' and this and all that. The only thing I don't like the only thing I don't like is I can't understand for the fuckin' life of me. A guy's supposed to be the Boss. And it takes him a fuckin' week and nothing. Now here's another thing Matty said. I'm gonna say what he said but whatever he said I'm gonna say right in front of you so you'll know. This way here you dropped what?

Francis White: Guns.

Frederick Simone: So now. He says to me. This is last week! He said, oh I went and seen Rocco. He said, Rocco [Argenti, a former Consigliere] called Fat Carmen [DiNunzio, then an LCN Capo and now the Underboss] and told Fat Carmen, end this mother fuckin' shit now until we come down and talk to you. You go and tell Sonny Boy to end this fuckin' shit right now. Now, that's ten days ago! It's still goin' on.

Francis White: It's gettin' worse.

Frederick Simone: It's worse!

Francis White: Awful.

(Oct. 28, 2000 tape 1 prelim. tr., at 9-10 (emphasis added).)

ARMED AND DANGEROUS

51. As the struggle within the LCN Family developed, **SIMONE**, **GIAOCCHINI** and **WHITE** repeatedly made clear to one another their mutual pledge to take whatever steps necessary to vindicate their names and defend their economic interests. On October 21, 2000, **SIMONE** and **GIOACCHINI** conversed, noting their anger at the movement against them and **GIOACCHINI**'s well-known reputation and ability for violence. The two also made clear their shared expectation that their enemies would seek to eliminate them when they were least expecting it:

Vincent Gioacchini: I couldn' take that, sittin' right next to me, seein' you comin' up the stairs .

Frederick Simone: Ya, oh, ya. He knows, he knows.

Vincent Gioacchini: Like a fuckin' sick mouth. I looked him right in his fuckin' house. Hey. Right in his house. He looked out the door, like this here.

Frederick Simone: Ya. He knows, he knows, he knows. But listen to me, he knows what you are, he knows what you're made of, he never was you.

Vincent Gioacchini: I won't back down. I went right to his house.

Frederick Simone: He knows that, he knows that, what are you talking about you think he don't know. You don't, everybody don't know? That's why, don't turn your back, 'cause you['re] gonna get it on the back.

(Oct. 21, 2000 tape 2 prelim. tr., at 4.) Elsewhere, **SIMONE**

reminded **GIOACCHINI**, "we better just be careful, we gotta make sure," to which **GIOACCHINI** reassured **SIMONE**, "I'm aware of everything, Fred. I'm watching my fuckin' back. I'm walking over (unintelligible) looking over my fuckin' shoulder. I don't, I, (unintelligible) what I'm, what am I, what am I going to do." (Oct. 21, 2000 tape 4 prelim. tr., at 2-3.)

52. **SIMONE** has noted **WHITE**'s credentials for violence. **SIMONE** rhetorically warned his putative enemy against challenging **WHITE**: "Fuckin' him too, he said, he [Spagnolo] wants to fuck with Franny [White]. Franny will punch his roof in, the truth. Franny, he's got Franny, he's got Franny at the, point of no return and that's a shame. That's a guy that don't fuckin' bother nobody." (Oct. 21, 2000 tape 2 prelim. tr. at 13.) In this context, "bother" means that **WHITE** does not challenge the business of any other LCN member but instead follows LCN protocol.

53. **GIOACCHINI** next outlined the plans he had laid for the people causing so much trouble and **SIMONE** reiterated his desire to be included:

Vincent Gioacchini: I went by there (unintelligible). I went by there. Last, see I was hopin' to catch him.

Frederick Simone: Ha.

Vincent Gioacchini: I went through the back alley (unintelligible) come through the back (unintelligible).

Frederick Simone: You gotta, you're supposed to get us, you fuckin' nut.

Vincent Gioacchini: I came back (unintelligible). I went and I grabbed (unintelligible). I went through the bathroom (unintelligible). He had the back door open. I was hopin' to catch him. And that's what I'm gonna do. I'm gonna do it. I got something fuckin' planned I want to rock-n-roll with it, Freddy.

Frederick Simone: Ya. You come and get us. You got four guys.

Vincent Gioacchini: Ha. No one's gonna, no one's gonna hear nothin', I'm goin' the same way I come in, they same way I'm gonna go out. I don't want to jeopardize these fuckin' guys, John and all these, there, you know what I mean? They got fuckin' families to fuckin' support. They, they, it's my beef. I'll handle it, I'll handle it. He's already, he's all ready to fuckin' go to this fuckin' kid. He says, "Dee Dee, I'm know something's fuckin' wrong. I know something's wrong. Mother fuckers." I said, John, nothing's wrong, go to work and stay out of trouble.

(Oct. 21, 2000 tape 2 prelim. tr., at 13-14 (emphasis added).)

LCN members know that death is the only way to leave the LCN Family.

54. **SIMONE** and **GIOACCHINI** identified their enemies, including Spucky Spagnolo, and the threat they posed because of the size and strength of the LCN contingent which the co-defendants believed was supporting Spagnolo. **SIMONE** and **GIOACCHINI** were concerned for their safety from such an unpredictable and ambitious LCN Soldier:

Vincent Gioacchini: The other guy Joe said to me "Dee Dee, watch your back." Why? He said, "I'm goin' away for two weeks. He said, now I figure something's gonna happen. For two weeks he's goin' away. I said, "He must have told this guy." He must have told Joe something." He must have told him something.

Frederick Simone: Who's that, Young?

Vincent Gioacchini: Ya. Fuckin' Spucky must have told him some, something can happen in the next two fuckin' weeks, while you're gone. "I had a meetin', I was in New York with all the fuckin' heads of the Families. We are bigger and stronger than we ever were." I wanted to say, "Hey, asshole."

Frederick Simone: Oh.

Vincent Gioacchini: "You're, I, I wanted, you know, you're in another fuckin' world pal. You sit there lookin', for on how to survive."

(Oct. 21, 2000 tape 2 prelim. tr. at 18-19.)

55. **SIMONE** and **GIOACCHINI** are particularly concerned about Spagnolo because he is both violent and unpredictable. Moreover, Spagnolo is armed and has attracted an armed following which made him feel invincible, furthering the potential threat to **SIMONE** and **GIOACCHINI**. One incident demonstrated his very poor judgment:

Vincent Gioacchini: He [Spagnolo's] so stupid, that's what makes him dangerous.

Frederick Simone: Ya.

Vincent Gioacchini: He's got all these young kids, fuckin' baffled.

Frederick Simone: That's what's bad.

Vincent Gioacchini: He's out in the nightclub, one night. Spucky gets in an argument with Junior Pignaro's brother. Junior's at the end, end of the bar. Matthew and Spucky were goin' at it. Junior comes over, oh Spucky, what are you doin'? Oh, still, that's my brother. Mind your fuckin' business, or fuckin', I'll kill you, and then I'll kill your fuckin' brother. Here's a guy that's with him? He wouldn't listen, "I'll kill you and I'll kill your fuckin' brother right after I kill you. And these are guys that are with him.

Frederick Simone: He's doin' business with Spucky?

Vincent Gioacchini: Ya.

Frederick Simone: That mother fucker.

Vincent Gioacchini: He must have, he must have all the young kids carryin' pistols for him?

Frederick Simone: He pulled out a pistol, that fuckin' asshole, he had to be stiff drunk.

Vincent Gioacchini: He goes to the Vogue.

Frederick Simone: 'Cause he.

Vincent Gioacchini: He goes to Opus One. He's got the same routine, every weekend. Now lately, he's been by himself, "I walk alone. When you got an army, you can walk alone."

(Oct. 21, 2000 tape 2 prelim. tr. at 21-21.) **SIMONE** believed

Spagnolo had violent and dangerous members of outlaw motorcycle gangs, with proven criminal histories, loyal to him too:

Frederick Simone: How about Spucky said, he told Dee Dee, he said, I got three hundred guys with me. Dee Dee said, I don't give a fuck if ya got twelve. He said, no, as a matter of fact I got six. He said, I got three hundred Hell's Angels, too. He said the Hell's Angels are with me too, he said, he

told, Dee Dee said, get the fuck outta here. He walked away.

Anthony Cataldo: (Unintelligible).

Frederick Simone: Yeah.

(Nov. 14, 2000 tape 1 prelim. tr., at 49-50.)

56. **GIOACCHINI** and **SIMONE** reiterated that they cannot and will not tolerate Spagnolo's antics, pledging to end the problem at its source if it persists:

Frederick Simone: Nobody, just wants to throw their life away, Dee Dee, nobody. Nobody. Hey, he said to me, "Freddy, what the fuck is goin' on with this fuckin' guys, he said, there's fuckin' assholes he said, this Spucky, and everything, what the fuck is goin' on?" He said, you know, he said, "I'd like to put five guys together and grab him, when he comes down here and splatter him like an egg. The last time you talked like that, he had.

Vincent Gioacchini: Ya.

Frederick Simone: I told him.

Vincent Gioacchini: You fucked me with my zipper down.

Frederick Simone: I say, "You better not fuck me," I said, "because I'm gonna come back, if I hear that kind of talk, ah, come out somebody else's mouth, put me in the middle of that shit," I said, "you're gonna end up in trouble." He said, I said, "and let me tell you something, see your brother, your brother knows it." He said, "No, my brother said it too, you know, tha, that "Dee Dee's a good guy." Ya, but you fucked Dee Dee, the last time. I said, "You better not fuck me, like you fucked Dee Dee."

Vincent Gioacchini: Ya and I went down to his fuckin' brother.

Mm.

(Oct. 21, 2000 tape 2 prelim. tr. at 21-22.)

57. **SIMONE** and **GIOACCHINI** indignantly mocked the fact that their rivals were "throwing fish around" in an apparent death threat in the style of the Godfather movies. (Oct. 28, 2000 tape 1 prelim. tr., at 4.) Using a contemporary analogy, **SIMONE**, **GIOACCHINI** and **WHITE** described the situation:

Frederick Simone: I told you yeah throw what's his name a fish in Franny's [White's] fuckin' hallway.

Matthew Guglielmetti: Really.

Frederick Simone: And they throw a fish in his.

Francis White: No, my my car is in the school yard, his he park his car leaves it there, he only drives his car once a week.

Vincent Gioacchini: I park my car so right across.

Francis White: Right across the street.

Vincent Gioacchini: Twenty four hours I park my car there because I don't ah, I take the train to fuckin' work. So they must of gone went by and they got him and me at the same time. Threw a fuckin' fish in his fucking hallway.

Matthew Guglielmetti: What fuckin' bs.

(Unintelligible.)

Francis White: I went with a broad I had a fish in my door step inside the entry way.

Matthew Guglielmetti: That's HBO.

Frederick Simone: That's the Soprano's.

Vincent Gioacchini: Call my fuckin' house, threaten my fuckin' wife.

Matthew Guglielmetti: You think it's that Spucky [Spagnolo]?

Frederick Simone: Yeah. Absolutely.

(Oct. 28, 2000 tape 2 prelim. tr., at 13-14.)

58. In the minds of **SIMONE** and **GIOACCHINI**, the threat from Spagnolo was nevertheless a real one, in part because they believed it was sanctioned by the New England LCN Boss himself, Luigi "Louie" Manocchio. As a result, they feared an imminent power grab, which likely would have involved violence:

Frederick Simone: I feel bad for him, to be truthful with you. That's what Matty [Guglielmetti] told me, that guy Rocco [Argenti], he said, he's got a history with him, ah, the Fat guy, Carmen [DiNunzio]. Carmen ran away on people. Dee Dee had to pay Gerry out of his fuckin' pocket. "No, I know, I know, I know, I know." Yeah, but what the fuck? That doesn't matter to him. It's not Car, I know it's not Carmen. It's that fuckin' Spucky that started it. He went and told Sonny. "They're not with us, you, you get 'em." You know, ah, he must have, he might have called and told Louie. "Hey, if somebody isn't with us, ah, they entitled to all this?" Louie probably said, "No." And that's the truth, that's it, he took off. But, he didn't go in detail, "Oh ya, Dee Dee, I'm gonna do this to Dee Dee, I'm gonna do that to Dee Dee, I'm gonna do this to Freddy." He didn't do all that.

Vincent Gioacchini: He might have told Louie [Manocchio], I'm gonna go grab Dee Dee. I'm goin' to grab, fuckin' Freddy.

Frederick Simone: Ya. Ya.

Vincent Gioacchini: He didn't grab me, he didn't grab you, what did he do? What's he grabbin'?

Frederick Simone: He's gonna grab.

(oct. 21, 2000 tape 2 prelim. tr., at 29-30.)

59. **SIMONE** and **GIOACCHINI** foresaw the downfall that Spagnolo could cause everyone:

Frederick Simone: Ya. Let me tell you something. If you got a, if you got a death wish, you go with him [Spagnolo].

Vincent Gioacchini: Yeah. Oh you better believe.

Frederick Simone: That's with that fuckin' nitwit, is they, got a death wish. That's what they got. 'Cause he's either gonna put you in jail and you're gonna die in jail.

Vincent Gioacchini: Yup.

Frederick Simone: Or, or, you're gonna.

Vincent Gioacchini: That's.

Frederick Simone: Die in the street.

Vincent Gioacchini: That's, that's, that's the direction he's goin'. They're gonna hit him with a fuckin' racketeering.

Frederick Simone: Ya.

Vincent Gioacchini: They're gonna hit him with a racketeering.

Frederick Simone: Oh, that's right.

Vincent Gioacchini: And it's gonna be, 'bye-bye Spucky.'

Frederick Simone: Ya. Hey, let me tell you something, I told Matty, I told everybody, "I'm waitin' for the FBI, to come to my fuckin' door, and your door."

Vincent Gioacchini: Ya.

Frederick Simone: We heard on the phones, that you're gonna get killed, boom. And they to, they have to tell us.

Vincent Gioacchini: You know something?

Frederick Simone: They have to come.

(Oct. 21, 2000 tape 2 prelim. tr., at 31-32.)

60. **SIMONE** and **WHITE** knew that Spagnolo had a past history of violence and disrespect for the LCN structure:

Francis White: But, but, it was comin' from down below.

Frederick Simone: In the mean time Spucky [Spagnolo] wanted to kill Sonny [Rizzo]. Spucky wanted to kill Charlie [Quintina, then the LCN Consigliere and now deceased]. Spucky wanted to kill his kid. Spucky wanted to do all this fuckin' shit and who are they kissin'?

Francis White: Yeah, they're in bed together.

Frederick Simone: Who minded their business? Us. Dee Dee walked away from them.

Francis White: Yeah that's what I said.

Frederick Simone: I mean and he's the main fuckin' clog. If everybody was gonna do anything around it would of been him, he walked away. Nothin' happened to them.

Francis White: What I keep on saying. You're going to work Dee Dee because you want to work. We talked about that. So who the fuck are you botherin'?

(Oct. 28, 2000 tape 1 prelim. tr., at 13-14.) **SIMONE** and **WHITE**, as businessmen, could not understand why the LCN leadership would support an intra-Family rift, with Spagnolo's involvement, when it meant that LCN members and associates would be sidetracked

from earning money for the Family.

61. From **SIMONE's** standpoint, he would obey Underboss Sonny Boy Rizzo if he had to do so, but would not obey the upstart Spagnolo or anybody else:

Vincent Gioacchini: What hatchet? I got nothin' against them people. I got nothin' against fuckin' Charlie [Quintina], Sonny [Rizzo], Lee [Rizzo, LCN Soldier and Sonny's son], Carmen [DiNunzio], none, nobody, nobody. I got no problem with nobody.

Francis White: That's the whole thing.

Vincent Gioacchini: I got no problem (unintelligible) you go. He's gonna set up a meeting between me and Sonny to go sit down. Okay. You go set up a meeting and I'll go meet Sonny and go talk with him.

Francis White: He's fucked up, he's fuckin' out of his fuckin' head. Freddy (unintelligible).

Vincent Gioacchini: I'll go talk with Sonny. I'll go meet with him.

Frederick Simone: Yeah. He ain't gonna meet us, don't worry. He ain't ever gonna meet us.

Vincent Gioacchini: I'm set. I'm gonna set up a meeting. You goin'. Ya, I'll go meet him. I'll meet him. We'll go to his fuckin' (unintelligible).

Frederick Simone: He did the same thing with me. Ah, he, he said to me, if, ah, we needed your help would you help us. I said, Spuck, did I ever refuse you? Did I ever refuse you? No. When you got fuckin' banged, who went up front? He said, you and Bobby [Carozza]. Oh! Just you remember all that then? So why you askin' me will I help you? I said, but, I'm gonna tell you right now. When you need help you come. I know you thirty years, let Sonny Boy

call me, I know him thirty years. Don't send no mother fucker twenty five year older that never cracked a fuckin' egg over to me, 'cause I ain't throwin' my life away for you or for him! That's it! I ain't doin' that. The guys that I know, that's the guys I want to do a thing with because I know they're not rats.

Francis White: So what the fuck he's mad at? So what's his gripe with you?

Frederick Simone: Yeah.

Francis White: What's Sonny's gripe?

Frederick Simone: Right?

Francis White: Did you take Sonny's guys?

Vincent Gioacchini: I didn't take nothin' away from him.

Frederick Simone: I didn't take nothing.

Vincent Gioacchini: I ain't bothering him. I was never asked about them.

Frederick Simone: He should, wish everybody was like us, we never asked him for nothin'.

Francis White: That's what I'm tryin' to say. What's?

Frederick Simone: Who the fuck? The only thing we did was went to his wake.

(Oct. 28, 2000 tape 1 prelim. tr., at 15-16.)

62. **SIMONE** and **WHITE** speculated that perhaps the LCN hierarchy was content because they continued to make money without being adversely effected financially by Spagnolo's antics:

Frederick Simone: He's eighty eight years old. He's in his house. His kid is walking around telling everybody my father's the boss. Sonny's

[Rizzo's] collectin' money here, there, there, there. Fat Carmen [DiNunzio] is makin' him a good weeks' pay. He's involved in everything.

Francis White: And the kid's sticking it in his pocket.

Frederick Simone: Yeah. Yeah.

Francis White: That's all the kids's money, he knows the old man is gonna die, what's he gonna spend it? Where's that money goin'? It's going to Lee [Rizzo].

Frederick Simone: No, No. The Old Man is sharp. The Old Man is sharp. He's getting all his money.

Francis White: But I'm saying yeah but who's who's (unintelligible).

Frederick Simone: But what I'm saying is this here. Carmen [DiNunzio] and him there's the whole fuckin' booking this, the cards this.

Francis White: Yeah.

Frederick Simone: That all that shit. He's happy, he's content.

(Oct. 28, 2000 tape 1 prelim. tr., at 17.)

63. **SIMONE** and **GIOACCHINI** pledged not to follow the paths to jail of those who had gone before them:

Frederick Simone: He's gonna beat that fuckin' case. How 'bout [Frank] Salemme's brother [Jackie Salemme, LCN Member] is gettin out.

Vincent Gioacchini: Oh, wow. Oh ya?

Frederick Simone: Ya, he's gettin' out, that other mother fucker. He'll be another pain in the ass. He'll probably retire though, his brother's ratting on everybody we know. Nice of him. Fuckin' boss. I told Matty, I said, "Matty, see all this talk? Freddy's nothing, Dee Dee's nothing," I

said, "I'm gonna tell you something, you know what they're makin'? They're makin' these suckers in the street say, 'Well, they're nothin' now, no more, we can take ov, take advantage of them.'" I said, "and somebody's gonna get hurt. If I got to hurt a sucker on the street, I'm goin' right in that mother fucker's house, I'm tellin' you now because. Before I get pinched, I'm gonna handle whatever I can, then fuck it. I might as well get pinched for two, one is just as bad as two, or three. What the fuck, what am I gonna do. I'm fifty years old, if I got to do another fifteen, I'll get out at sixty-five, what the fuck, I'm dead anyway, might as well, kill me now. Fuck. That's it. Don't you see?

Vincent Gioacchini: Ya.

(Oct. 21, 2000 tape 2 prelim. tr., at 36-37.)

64. **SIMONE** and **GIOACCHINI** emphasized how serious they were about their future and how Spagnolo will be confronted by the LCN leadership:

Vincent Gioacchini: But I need it, you know, ah, I ain't no dog or nothing. I'm not dogging nothing.

Frederick Simone: You're not dogging shit. Hey, he told them right out cold turkey. He said, these guys here are carrying this, and that's it. Now if this guy's gonna get it, if that's the way they want, they're not going out like suckers. These are men here.

Vincent Gioacchini: Oh no, we're ain't going out at all. We ain't going out at all. Once I start, we're on a roll, right?

Frederick Simone: So anyway, listen. So now, ah, they said, no, no, no, leave Spucky alone. We'll guarantee it. As long as they don't hurt him that there's no problem. They went

and got him that fucking day and that was it.

Vincent Gioacchini: And they grabbed who? Spucky?

Frederick Simone: Yeah. Oh yeah.

Vincent Gioacchini: What did he have to say?

Frederick Simone: I don't know yet. . . .

(Nov. 4, 2000 tape 1 prelim. tr., at 5.)

65. **SIMONE** and **GIOACCHINI** sometimes doubted the credentials of some of the newer LCN members who, unlike **SIMONE** and **GIOACCHINI**, had not had to commit murder as a precondition of membership. In the end, however, Guglielmetti made clear that even the new members had to kill or be killed when ordered to do so: "We're gonna do this with these kids and they're gonna do it because if they don't do it ya got to kill 'em." (Oct. 28, 2000 tape 3 prelim. tr., at 2.)

66. **GIOACCHINI** revealed how angered he was by the ongoing situation and how he had to restrain himself from murdering those whom **GIOACCHINI** plainly no longer respected:

Vincent Gioacchini: He says, well, he says, "Are you with, are you with us, are you with me?" I said, "who you talkin' am I with you or Mark, who, who, who am I, who am I supposed to be?" "Well, I can't divulge that, 'cause then."

Frederick Simone: Well, how the fuck you gonna ever know?

Vincent Gioacchini: "If you ain't with us." He says, and ah, "and another thing, you're a Soldier, and a Soldier's got no fuckin' say, and don't

forget," he says, "you come in one way, and you go out another."

Frederick Simone: Oh, see, he's tryin'.

Vincent Gioacchini: I was gonna fuckin' bang him.

Frederick Simone: Oh!

Vincent Gioacchini: Right there, I stopped. Said, "No Dec, catch it, catch it."

Frederick Simone: Thank God.

Vincent Gioacchini: You know? I said, "Oh, I gonna, right there." I was gonna fuckin' knock 'em right fuckin' dead, in his house.

Frederick Simone: Oh boy, that fuckin' kinda talk. What a fuckin' asshole.

Vincent Gioacchini: Don't forget you came in one way.

Frederick Simone: Ya, but it's a good thing you know him.

Vincent Gioacchini: You go out another.

Frederick Simone: He's nothing, he ain't gonna do shit.

Vincent Gioacchini: No.

Frederick Simone: He ain't gonna do shit.

Vincent Gioacchini: I'll gonna tell him, "Fuck you, fuck your three hundred guy fuckin'.

Frederick Simone: Ya.

Vincent Gioacchini: Army and your other army behind that.

(Oct. 21, 2000 tape 3 prelim. tr., at 26-27.) In this conversation, **GIOACCHINI** recounted how Spagnolo threateningly reminded them of the shared LCN understanding that people enter life from death and leave the LCN through death.

67. As a result of that incident, **GIOACCHINI** believed that a plot was brewing against him, trying to bait him into violence to justify violence against him. **SIMONE** reassured **GIOACCHINI** of his loyalty.

Frederick Simone: Don't make a fuckin' asshole like him make you make a stupid move. Don't make a fuckin' clown like.

Vincent Gioacchini: No, I can.

Frederick Simone: Him, make you make a dumb move.

Vincent Gioacchini: They're sending him out the fuckin' front. Hopin' that I would whack him, so they'd have a fuckin' reason.

Frederick Simone: Ya.

Vincent Gioacchini: Yeah.

Frederick Simone: You know why?

Vincent Gioacchini: Because they probably say if anybody could aggravate Dee Dee it would be him. Lets send him out.

Frederick Simone: Ya. Ya.

Vincent Gioacchini: Let send him out.

Frederick Simone: Ya, right.

Vincent Gioacchini: He'll come back, he'll end up fuckin' knockin' him the fuck out. Now, we got a reason to do what we gotta do.

Frederick Simone: Ya. Don't, don't let that fuckin' asshole get you all excited. Because you know he's nothin'. That fuckin' creep. It's a fuckin' shame believe me when I tell you, it's a shame. It's a fuckin' shame, Dee. Don't make them, make you go to the can because, you gotta do it right. You know? And there's no reason for you not to do it

right. You got five of us. And we'll do it right, believe me when I tell you, we'll do it right, Dee. I hope you're not stupid. . . .

(Oct. 21, 2000 tape 3 prelim. tr. at 27-28 (emphasis added).)

The conversation continued:

Vincent Gioacchini: Ya. Ya.

Frederick Simone: Ya. It's a fuckin' shame Dee. But, like you said, you know, in reality, you could end up as you know, they'll rat on ya, you got a gun, the law hears you got a gun, then you're gone, ten years day for day. That's what they want you to do. They would rather us go to the can tomorrow, he'd come off. Oh, ya. He'd come off. Believe me, Dee.

(Oct. 21, 2000 tape 3 prelim. tr. at 29 (emphasis added).)

68. **SIMONE** eagerly anticipated his confrontation with Underboss Sonny Boy Rizzo who **SIMONE** believed - mistakenly, as it ultimately turned out - was behind the movement against him. **SIMONE** emphasized his thirty-year loyalty to the LCN which he called the "Mafia" and how embarrassed he was to see the antics to which they had resorted:

Frederick Simone: I can't wait for this fuckin' meet, I'm gonna meet at the hotel ah the, Boston Harbor I'm gonna tell him, right out, cold turkey, "thirty fuckin' years, and you go callin' people, like that, instead of sayin, ah, "Freddy, I want to talk to you," no one came down to me. You called me twice, did I come twice? Because, when I came, I gonna tell him, "Did you ever tell me, 'Well Freddy, you know, where do you stand with this, or you know ah, you know, are you involved or you're not involved. Did you ever ask me

for that?" I said, "You wanted eat, I had the kid cook tripe for you and this and that, you was tellin' jokes. You didn't say nothin' to me. Why didn't you, you had two shots to tell me, "Freddy, are you with us, or against, you didn't talk none of that talk. The last time I was with you, was at your fuckin' wife's wake, we sent you flowers, we came into the wake and everything. Why didn't you say something then? Why didn't Charlie [Quintina] say somethin', I talked to him for over a half hour. Nobody said nothin'. What is all this fuckin', ya, ya, ya, hi, kissin' and huggin' and I said you do this? Why didn't you call me? What am I supposed to know what's in your fuckin' mind? You didn't tell me, you was the Boss, why didn't you tell me? He said, "Freddy, I took over here. I would've said, "Well, Sonny [Rizzo], you been around thirty years that's good." You didn't do that. You made me think that Mark Rossetti [LCN Capo] was the fuckin' Boss. And I told you, that kid there is not a rat, but he's got a problem.

Vincent Gioacchini: Ya.

Frederick Simone: And he did. Did I lie? I didn't lie. But if you told me, you was in charge, I would've said, "Okay, good" at least I know somebody's fuckin', not a junkie, ah, sens, sensible guy was there. You didn't te, tell me none of that. Then you asked me if Bobby Luisi [LCN Capo in the Philadelphia LCN Family] was with me? And I told you "Absolutely not! I never cut up a buck with Bobby Luisi. What the fuck are you talkin' about? Now, what else? What else Sonny Boy? What else makes you do what you did? Now, how can I ever trust you now? You called up broads, you called up the guys, you, went, went all around the mulberry bush." I said, "and, not only that, it's embarrassing to me, that the fuckin' Mafia, could be doin' that kind of shit. I never heard of that.

When Joe Russo [former LCN Underboss] wanted to talk to you, he called for ya, when Sammy [Granito] wanted to talk, he called, when Johnny Williams [Johnny Guglielmo, former LCN Capo now deceased] wanted to talk, he called, when [G]erry wanted to talk, he called.

Vincent Gioacchini: Ya.

(Oct. 21, 2000 tape 3 prelim. tr., at 30-31 (emphasis added).)

Elsewhere, **SIMONE** clarified his contempt for Capo Mark Rossetti:

Frederick Simone: See. Now that's the bad part, bad part. How about Rossetti, Mark. Did you ever think for one second.

Vincent Gioacchini: A fuckin' stone cold fuckin' junkie.

Frederick Simone: Yeah, you tell him. Imagine that, they made him a Captain. (Unintelligible).

Vincent Gioacchini: Now, who done that for him?

Frederick Simone: Ah, the guy in Rhode Island there, Rudolph [Sciarra, an LCN Capo], that's his buddy.

Vincent Gioacchini: Another rat.

Frederick Simone: Rudolph, The Saint.

Vincent Gioacchini: The Saint [Anthony St. Laurent].

Frederick Simone: The Saint, Rudolph, and them. Them are the ones that got Matty [Guglielmetti] stabbed.

Vincent Gioacchini: Those are the ones, those are the ones that were going to use Frankie [Salemme, former LCN Boss] to set up Johnny [Cinnotti, previously convicted LCN member]. To lug Johnny. Johnny knew all, Johnny knew. And then they put the Saint in the fuckin' paper, he was working for the fuckin' Feds. He's still getting around. Rudolph.

Frederick Simone: That right. My God.

(Oct. 21, 2000 tape 4 prelim. tr., at 3.)

69. **SIMONE** distinguished himself and **GIOACCHINI** in their entry into the LCN: "They threw us in the street nine times before we even got fuckin' looked at." (Oct. 28, 2000 tape 3 prelim. tr., at 4.) **WHITE** bragged, "I'm forty years with the guy," meaning the Underboss Rizzo. (Oct. 28, 2000 tape 3 prelim. tr., at 7.)

70. During the course of this emerging internal LCN rift, both **SIMONE** and **GIOACCHINI** discussed repeatedly the underlying bases for potential threats to their standing and safety within the LCN, as well as the homicidal lengths they would go to ensure their survival. As **SIMONE** puts it succinctly: "I don't give a fuck. I ain't gonna get shot. I'd rather get judged by twelve [jurors] than carried by six [pallbearers]. I don't give a fuck Dee Dee [Gioacchini]." (Oct. 21, 2000 tape 1 prelim. tr., at 34.) **SIMONE** reiterated his sentiments:

Frederick Simone: . . . I said, listen, go back and tell that fuckin' guy, thank you very much for helpin' us, it's just that all bets are off. Some mother fucker come in front of our face that's the end of it. That's it. That's all. Just tell him I said all bets are off. Now if he wants to do something that's fine. If he don't want to do something thank you very much we'll handle it. But I'm going to tell you right now, when the wrong guy gets shot I don't want to hear later on that, geez, the wrong guy got hurt or the wrong guy this because we

don't know who's wrong or who's right.
They ain't come face to face they're
playing asshole shit games. So I don't
want to hear later on, well, geez, you got
the wrong guy. Hey fuck that! We're
we're fighting for survival here. . . .

(Oct. 28, 2000 tape 1 prelim. tr., at 11.) **SIMONE** and **GIOACCHINI**

took no chances:

Vincent Gioacchini: Freddie, how would you like to go to work
with a pistol on you?

Frederick Simone: That's what I've been doing every day!
What are you talking about?

Vincent Gioacchini: I caught someone in the fuckin' lot in a
van.

Frederick Simone: Everyday, everything.

Vincent Gioacchini: I seen two guys in a van. I took it out.
I pulled it out. You want me come on
let's get it on. They took the fuck off.

Frederick Simone: Yeah.

Vincent Gioacchini: They took' off.

Frederick Simone: Yeah.

Vincent Gioacchini: Right in front of Franny's [Franny
White's] house.

Frederick Simone: So listen. Now, now listen to this, I
know Franny and Joe guns [Salvati]. Joe,
here's poor Joe.

Vincent Gioacchini: Yeah.

Frederick Simone: Did thirty fuckin' years. Said, I don't
give a fuck Freddie, he said, I'm right
here and that's the way it is. He comes
and picks me up with the lawyer's car
every day.

Vincent Gioacchini: Yeah.

Frederick Simone: Now I've been carrying every day. . . .
 (Oct. 21, 2000 tape 1 prelim. tr., at 5-6.) Rhode Island Capo Matthew Guglielmetti reiterated: "I said listen, there's a lot of stuff over here, we're all carrying large." (Oct. 28, 2000 tape 2 prelim. tr., at 16.) In this conversation, "carrying large" means carrying guns.

71. The internal LCN wranglings threatened **WHITE** just as they did **SIMONE** and **GIOACCHINI**. **GIOACCHINI** explained to **WHITE**: "Your problem is, is with this fuckin' guy [Spucky Spagnolo]. He's got a fuckin' vendetta against the three of us [Gioacchini, Simone and White]." (Oct. 28, 2000 tape 1 prelim. tr., at 22.) Consequently, **WHITE** also armed himself, just like his associates **SIMONE** and **GIOACCHINI**, when he feared that the intra-LCN dissension posed a physical threat to himself.

Frederick Simone: So now, I said we're dealing with fucking assholes here. So, now they go and see Sonny. Now, Louie goes, Rocco goes. They sit down, hey come here. They get ah Fat Carmen, sit down. What's going on? Somebody's gonna get killed here. You got five guys running around with pistols. What? Yeah, Freddy, Dee Dee, Franny, this guy, that guy. You got guys running around with guns here. What the fuck is going on? Dead fishes in hallways, guys get threatened their arms cut off. What the fuck is this? If you gotta beef with these guys, you know, call them in and tell them to stop.

(Oct. 29, 2000 prelim. tr., at 1-2.) **WHITE** himself was dispatched by **SIMONE** to take care of the person he then believed

to be the source of the trouble. **SIMONE** said: "I had Franny and Johnny huntin' this kid in East Boston." (Nov. 14, 2000 prelim. tr., at 25.)

72. **SIMONE** knew that there was strength in numbers for the three of them sticking together: "They ain't gonna fuck with both of us together. Two, three of us together, they ain't gonna do that now." (Oct. 21, 2000 tape 2 prelim. Tr., at 2.)

73. **GIOACCHINI**, to **SIMONE**'s amusement, outlined the seriousness of the situation as he paraphrased Spagnolo's view:

Frederick Simone: Listen.

Vincent Gioacchini: You're against me, if you're against me I know your lookin' to hurt me. If your lookin' to hurt me, I'm gonna kill ya.

Frederick Simone: Laughing.

(Oct. 28, 2000 tape 2 prelim. tr., at 31 (paraphrasing Spagnolo).) **GIOACCHINI** was angered at having to carry a gun: "I got to come out of the house with a pistol on me to go to fuckin' work to make a living, to support my fuckin' kid." (Oct. 28, 2000 tape 2 prelim. tr., at 33.) Nevertheless, he carried the gun.

74. **SIMONE** clarified the potential dangers of such a volatile situation with many armed gangsters:

Frederick Simone: when the wrong guy gets shot I don't want to hear later on that, geez, the wrong guy got hurt or the wrong guy this because we don't know who's wrong or who's right. They ain't come face to face

they're playing asshole shit games. So I don't want to hear later on, well, geez, you got the wrong guy. Hey fuck that! We're we're fighting for survival here. Right? We don't know who's who. The only one we know is Spucky. Really then we kill who else? Nobody! Nobody else said a fuckin' word.

(Oct. 28, 2000 tape 1 prelim. tr., at 1-2.)

75. The three co-defendants, **SIMONE**, **GIOACCHINI** and **WHITE** sized up the situation with Spagnolo as follows:

Vincent Gioacchini: Your problem is, is with this fuckin' guy. He's got a fuckin' vendetta against the three of us.

Frederick Simone: Oh.

Francis White: You know why, because in his fuckin' pea brain Dee Dee he thinks people are making a million dollars. And he said I got the football cards Spucky.

Vincent Gioacchini: What I'm telling you.

Francis White: Him and I know for over twenty years (unintelligible).

(Oct. 28, 2000 tape 1 prelim. tr., at 22-23.)

76. In other words, these three co-defendants were in a vulnerable position, at the mercy of an unpredictable and violent profit-seeker, Spucky Spagnolo. Consequently, **SIMONE**, **GIOACCHINI** and **WHITE** all took up arms:

Francis White: Yeah. I'm gonna leave this over here Freddy?

Frederick Simone: What?

Francis White: Leave this piece [gun] right here.

Frederick Simone: Yeah. See where I got mine don't you?

Vincent Gioacchini: Where?

Frederick Simone: Right here pal. Yeah okay.

Francis White: Well I just, that'll slip it's too small. It'll slip right through Freddy.

Frederick Simone: Put it in your pocket you fuckin' nut.

Francis White: All right. Okay.

Frederick Simone: Yeah we'll see okay.

Vincent Gioacchini: That's why it would of been better if we went down the fuckin' street.

Frederick Simone: No, that's worse. That's worse, that's worse. Over here just leave, blam, don't worry about it. I know what to do.

Francis White: That's why I wonder, that's why I wonder.

Frederick Simone: Just use them bags. We'll come back at night. Don't worry, he'll be packaged right up. I'll get the sheets and everything. That's it. Fuck that. I'd rather do a little cleanin'. Over here, over here, when I shut the lights out it's pitch black. You can't see nothin'. Nothing. Nothing. Nothing. I could leave him in the fuckin' yard for a week.

(Oct. 28, 2000 tape 1 prelim. tr., at 24-25.) As the intra-LCN strife worsened, **SIMONE**, **GIOACCHINI** and **WHITE** had plainly found themselves in a dangerous situation which they made more dangerous by carrying firearms.

77. The situation's volatility was exacerbated by the fact that Rhode Island Capo Guglielmetti, upon whom the three co-defendants relied to broker a resolution, himself had a checkered

track record with the current LCN leadership. In the following conversation, Guglielmetti recounted how he explained to LCN Boss Manocchio why he willingly followed previous orders to attempt to assassinate Manocchio:

This is strictly business with me. If somebody said something to me, that was it, what am I suppose to do ask him questions. It's kind of odd. He said what I can't understand, he didn't go into that part like he was going to jumped right over any ways I said I can't understand it. I said I can't understand it either Lou but I never asked like I said it's strictly business I said, even now I says, but there aren't no problems I'll be honest with you. I said because that was business, and this is business.

(Oct. 28, 2000 tape 3 prelim. tr., at 10.) This business, however

is deadly:

I said, what are you tryin' to tell me, he don't want to let it go. I said, we deal with guys every day we're gonna clip each other. We put it aside. It's part of business. I says, we go on with life, we go look to earn.

(Oct. 28, 2000 tape 3 prelim. tr., at 10-11.)

78. Even **SIMONE**'s paramour, Pamela Harris Daley, Esq., realized that **SIMONE** had resorted to carrying a gun for constant protection:

Frederick Simone: How 'bout fuckin', how 'bout poor fuckin', Pam? Fucking weird. She says my God I'm driving with her so (unintelligible) she feels the fucking gun and says ah, Jesus Christ Freddy. I said, "Ah, don't worry about it." I says, "I gotta better be careful, they made that phone calls to your. I'm blamin' it, like on her, I'm goin'. Fuckin' shame. But, this is the mob? Thought you, had something against

somebody, you called him like a man,' but at least Spucky called you. Fuckin' Sonny [Boy Rizzo], mother fucker, never even called me. At least that sick cock sucker called ya. You got to give him that credit anyway. Fuckin' punk. You know? At least they called you? This guy here, who's this.

Vincent Gioacchini: No, he never called me.

(Oct. 21, 2000 tape 2 prelim. tr., at 37-38.)

79. **SIMONE** and **GIOACCHINI**, emphasized that they would do anything necessary to defend themselves and their interests, even as they hinted at the situation being exacerbated by the actions of their own kin:

Frederick Simone: I so happy that I finally got you, and I, I told Franny, I said, "Oh, my God I."

Vincent Gioacchini: I know what's goin' on, I'm not, I'm not. I'm not a fuckin' dummy, I knew all the moves. I told you the last time they stabbed my mother fuckin' tires. I know the moves. I know the moves, I'm ready for them. It's just that ah, you know, it sucks that I gotta come out of my fuckin' house with a fuckin' pistol. Then I gotta look at my daughter now, my daughter's thinks somethin' fuckin' wrong.
(Unintelligible.)

Frederick Simone: I hope your wife doesn't hear any of this talk because your wife will get an fuckin' attitude and go and grab 'em, tell 'em right in the middle of the street, "Don't, don't ever let her know this talk." She don't give a fuck you know she, and then sh, then.

Vincent Gioacchini: You know about the people on the street and they call her up.

Frederick Simone: Yeah, they call her?

Vincent Gioacchini: Ya, but ah.

Frederick Simone: That's no good.

Vincent Gioacchini: It's just lately, she, she.

Frederick Simone: She'll rape that.

Vincent Gioacchini: She didn't.

Frederick Simone: Son of a bitch.

Vincent Gioacchini: She didn't say nothin' to me.

Frederick Simone: Good.

Vincent Gioacchini: She didn't say nothin'. That's why I told her before, I goes, "Let get the fuck out of here, 'cause someone's gonna get in my face some fuckin' day."

Frederick Simone: No.

Vincent Gioacchini: I'm not backin' down from no one. I'm gonna end up in the fuckin' can.

Frederick Simone: Nobody's gonna.

Vincent Gioacchini: I'm gonna end up back in the fuckin' can, again.

Frederick Simone: Ya, we'll be there together. I just hope this fuckin' punk (unintelligible) now. I told him in front of everybody, right in the thing, I says, "Spucky," I said, "let me tell you somethin', I don't bother anybody. One of these fuckin' assholes come and bother me," I said, "we're holdin' court right in the street." Ask Joe, Joe, Franny, everybody was, all his people were there. I told him, right, and his son was standin' right there. His son said, "Dad (unintelligible)."

(Oct. 21, 2000 tape 3 prelim. tr., at 18-19.)

80. **SIMONE** proudly recounted how his tactics have scared Spagnolo who had tried to greet **SIMONE** with a casual - but insulting - physical embrace in an effort to determine whether **SIMONE** was carrying a gun.

Frederick Simone: No. Ya, right and, ah, ah, there was none of that. How 'bout he walked in, he went like this to me. "Hey, Freddy!" He was feelin' for a gun. I said, "Spucky it's in my pocket." That's how scared he was.

Vincent Gioacchini: Ya.

Frederick Simone: Pattin' for a gun.

Vincent Gioacchini: Fred I'll, I'll, I'll tell you. You know how bad, I, I fuc, I want, I'll fuckin'.

Frederick Simone: Ya.

Vincent Gioacchini: Humiliate him.

Frederick Simone: Hey?

Vincent Gioacchini: Knock him out.

Frederick Simone: Imagine me walkin' up to you and pattin' you on your fuckin' back?

Vincent Gioacchini: Ya.

Frederick Simone: That's a yellow mother fucker.

Vincent Gioacchini: Ya.

Frederick Simone: We're in a restaurant, in the, the, the joint, not the restaurant, ah, Florentine and all his buddies are there.

Vincent Gioacchini: You're lucky, he didn't get on the fuckin' phone, on the way out, to fuckin' call, "He's got a pistol on him."

Frederick Simone: Ya.

(Oct. 21, 2000 tape 3 prelim. tr., at 21-22.)

81. **SIMONE** and **GIOACCHINI** reaffirmed their pledge to survive, no matter how violent the cost:

Vincent Gioacchini: He's gonna go down, the Feds know what they got on him.

Vincent Gioacchini: But he was ah he's so fuckin' stupid that he's gonna take everybody around with him. He, he ain't gonna take me down with him.

Frederick Simone: He ain't, ain't takin' me down with him.

Vincent Gioacchini: I'll battle with him out in the fuckin' street.

Frederick Simone: How about uh, how about Sonny Boy. Sonny's Boy gonna have a part of it, he's eighty-eight years old.

Vincent Gioacchini: Yeah.

Frederick Simone: A finif, he's dead, that's a life sentence. And you want to fuck with him. What's wrong.

(Oct. 21, 2000 tape 4 prelim. tr., at 11.)

INTERSTATE INFLUENCE

82. **SIMONE** was recorded as he outlined his thirty-year LCN history and discussed how he arranged for Rhode Island Capo Matthew Guglielmetti to broker the peace in Boston:

Frederick Simone: You're not with us, you're not with us, that's why he's fuckin' with you because you're not with us. That's why I told Rocco you tell him no he's gonna be with us. They're our with us and they're friends. And they've been friends for thirty years, get the fuck out of here, now go and bother some, go and earn a living off of somebody else. Yeah. Yeah. Matty said that to himself. You guys are

good guys, these guys are my fuckin' friends what the fuck kind of shit is that. What the fuck is this, this, this, this, who are they bothering. Are they asking for this, he wishes he had twenty guys like us.

Vincent Gioacchini: What's he gonna go tell him. I, I, didn't like what he done thirty years ago to me. That shit with Row, that's the only thing he got though, I tell him straight out.

Frederick Simone: What's there.

Vincent Gioacchini: I said I'm right here, I'm here, I'm here right now, right here let's hash it out.

Frederick Simone: Yeah, yeah.

Vincent Gioacchini: That's all me. I ain't got nothing against you.

Frederick Simone: Yeah.

(Oct. 21, 2000 tape 4 prelim. tr., at 14-15; see also Oct. 28, 2000 tape 1 prelim. tr., at 2 ("Matty. He's comin'. He went and talked to the old man, Louie.").)

83. Guglielmetti offered the following advice to the three defendants:

Matthew Guglielmetti: Because my fuckin' neck is in the ringer better than yours 'cause you guys are moving. I got to go to these fuckin' meets. I'm gonna be honest with you. So now what happens is they've been up right in front with me. I said listen over here these guys are looking to patch it up, looking to get back in, get all this fuckin' nonsense aside, so we can go on and start earning money over here put this thing in the view. And I want through the whole thing. And there is no reason anybody should be fuckin' abused from a Friend of Ours.

Frederick Simone: So what he say.

Matthew Guglielmetti: I'm gonna meet Rocco. Rocco [Argenti] went to see Louie [Manocchio]. (Unintelligible.) That's all I know, and I'll start reaching in. You know, we don't have the same contact we had years ago but I'll reach in. Okay, they were suppose to come down Thursday. He cancelled. He got to me right away. He said listen, I cancelled. I said who the fuck he somebody gonna reach down there. He said yeah I'm gonna try. Normal way I reach through Carmen [DiNunzio]...oh the other guy said wait we'll see him in person. They're gonna reach us again. See you gotta understand this ain't a fuckin' joke. Guys are gonna abuse men [LCN Soldiers], men ain't gonna take it.

(Oct. 28, 2000 tape 2 prelim. tr., at 14-15 (emphasis added).)

84. Guglielmetti will even arrange for Spagnolo to return

SIMONE's and **GIOACCHINI's** rent payors:

Vincent Gioacchini: I said nan, this ain't worth going to the can for one hundred twenty-five dollars a week. I'll go work on a fuckin' Saturday for that.

Frederick Simone: No, he's gonna, he's gonna give that back Dee, because I mean he's got to give it back to you, that's it. I told Matty I said tell him they have to give that shit back.

(Oct. 21, 2000 tape 4 prelim. tr., at 21-22.)

85. Recently assassinated LCN acting Capo Aldo Bruno, from the New York-based Genovese crime Family living in Springfield, Massachusetts, had tried to broker the peace on behalf of **SIMONE**, **GIOACCHINI** and **WHITE**. Bruno traveled to Rhode Island and then met with all three co-defendants in Boston's

North End while **SIMONE, GIOACCHINI** and **WHITE** also tried to arrange for Guglielmetti's personal involvement.

86. In the end, Guglielmetti told **SIMONE, GIOACCHINI** and **WHITE** that Spagnolo would be instructed to desist:

Frederick Simone: He's a the boss. Who the fuck is the boss?

Matthew Guglielmetti: I'm gonna tell you why. This ain't the same set up as what the old man had. See this guy up here.

Frederick Simone: Yeah.

Matthew Guglielmetti: This guy's a fuckin' loser, a retard. The old man, the old man. Sonny's gone. His father got his minds gone.

Vincent Gioacchini: So why did they put him there?

Matthew Guglielmetti: Because he was there.

Frederick Simone: He was there.

Matthew Guglielmetti: When they make pacts like this you know yourself, it's whatever's there, whatever fowl they throw in with.

Frederick Simone: Yeah.

Matthew Guglielmetti: So now, I mean it's like ah a whore in the neighborhood, you know you stand here long enough we'll use her.

Francis White: Who was around at the time? Yeah.

Matthew Guglielmetti: And this is how they end up with him, it went from Charlie [Quintina] to him that's how it went. So now what takes place is this. He said he's on his way to Boston to grab him to tell him to stop. They're gonna let me know what's going on. I just want to let you know that. So now from there, whatever you want to do from there.

(Oct. 28, 2000 tape 2 prelim. tr., at 21.)

87. Guglielmetti knew that the LCN's violent way of doing business and constant threat of death is the only mechanism to ensure loyalty: "A year from now somebody goes out to dinner, and they don't come back. And that's the only thing that keeps us all honest. He said ya, we would never do that, never." (Oct. 28, 2000 tape 2 prelim. tr., at 40.)

88. **SIMONE** issued a tongue-and-cheek ultimatum, in the presence of **GIOACCHINI** and **WHITE**, on solving the situation:

Matthew Guglielmetti: Ask Louie he talks like that.
(Unintelligible.) He'll answer the problem.

Frederick Simone: I mean what the fuck I don't know.

Matthew Guglielmetti: Yeah you got to understand he's fuckin' (unintelligible)..

Frederick Simone: You got to kill someone.

Matthew Guglielmetti: (Unintelligible) he declared war.

Frederick Simone: No shit. Either that or we make our own family. We'll call it the White Family.

Matthew Guglielmetti: The White Family. Fuck Sonny, there's nothing wrong with that.

Frederick Simone: Yeah.

(Oct. 28, 2000 tape 3 prelim. tr., at 26-27.)

89. Ultimately, **SIMONE** and **GIOACCHINI** acknowledge that they are willing to suffer the consequences of their actions:

Frederick Simone: This, that, what, Sonny must of shit. 'Cause he knows I know where he lives and everything, I mean, come on. You

don't want guys like us acting paranoid that.

Vincent Gioacchini: We'll go from one, one door to the other.

Frederick Simone: You got what? No. Let me tell you somethin'. They can only give you one life sentence. No matter if it's one or six. That's it. You're only gonna get one life sentence. There's no death penalty. So, I mean, c'mon, one natural life is enough.

Vincent Gioacchini: Fat Boy lives right down the street.

Frederick Simone: Ha, ha.

(Nov. 4, 2000 tape 2 prelim. tr., at 8 (emphasis added).)

90. **SIMONE** acknowledged the fierceness of his co-defendant **GIOACCHINI** when speaking to somebody else: "Dee Dee is a very dangerous motherfucker. Believe me." (Nov. 14, 2000 tape 1 prelim. tr., at 30 (emphasis added).)

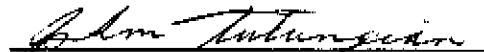
STRENGTH OF CASE

91. As the foregoing paragraphs demonstrate, the government's investigation has compiled a strong case against the defendants. The wiretap evidence is extensive and the preceding paragraphs only summarize a portion of selected conversations.

CONCLUSION

92. Based on the foregoing, I believe that there is no condition or combination of conditions for any of the defendants that will reasonably assure the safety of any other person and the community or the appearance of the defendants as required.

Respectfully submitted,



John Tutungian
Detective Lieutenant
Special Services Section
Massachusetts State Police

Subscribed and sworn to before me on this th 4 day of
December 2003.


HON. JOYCE LONDON ALEXANDER
UNITED STATES MAGISTRATE JUDGE

